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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The Visit of the American Bar Association.

THE VISIT of the American Bar Association has proved the success which the originators of the happy scheme anticipated. The welcome by the profession in this country has been hearty and sincere, and we hope that it has conveyed to our American friends some idea of the pleasure which their coming has caused. The programme has been carried out with as much care and accuracy as it was planned. At the services at Westminster Abbey, St. Paul's Cathedral and Westminster Cathedral last Sunday American lawyers and the ladies with them availed themselves of the seats which had been reserved, and on Tuesday there was a service, with special music, at the Temple Church. On Monday there was the very impressive ceremony in Westminster Hall, an event which will be an unforgettable memory to those who were present, and of almost equal interest was the unveiling of the BLACKSTONE statue—the gift of the American Bar Association—at the Royal Courts of Justice on Wednesday. The social side of the visit has been shown in many ways—in the dinners given by the four Inns of Court and The Law Society on Monday and Tuesday; in the Reception and Banquet given by the Lord Mayor and the Corporation of the City of London on Tuesday; in the Reception by the City of London Solicitor's Company on Thursday; in the Garden Party by Lord and Lady PHILLIMORE at Kensington; and the Garden Parties at Lincoln's Inn and Gray's Inn. This does not exhaust the list, and we reserve for final mention the Garden Party given by the KING and QUEEN at Buckingham Palace on Thursday.

The Meaning of the Visit.

WE HAVE GIVEN a short summary of the week's happenings. But how shall we summarize all that has been said? We attempt to report it on another page, but space forbids a complete record. Mr. ASQUITH, Lord HALDANE, Lord BIRKENHEAD, Lord HEWART and others have voiced in speeches of great interest the welcome of the profession, a welcome in which representatives of the Canadian Bar Association have joined, and Mr. C. E. HUGHES,

at once President of the American Bar Association and United States Secretary of State, Mr. MOORFIELD STOREY, who was the first President, Mr. Justice SUTHERLAND, of the United States Supreme Court, and others, have replied in speeches of equal interest. And yet, though so much has been said, we can perhaps summarize it. Advertising may have its uses; there were not a few sly hints at the Advertisers' Convention; but social life, with all its diverse requirements and complications, rests ultimately on law. It is for lawyers to secure the supremacy of law in the State, and it is for lawyers to aim at securing the supremacy of law—the substitution of law for force—in the Commonwealth of States which is the civilized world. But the special bond between American and English lawyers lies in the common origin of the law which they learn, and which they apply. For convenience it is called the Common Law; also for convenience it is associated with the name of BLACKSTONE, and to these names homage has worthily been done. But they are only the symbol of a wider sphere of law—equity, and other systems—and of names perhaps more renowned, which have brought the law into its present state. Varying statutes, and varying circumstances influencing judicial decision, make the law of to-day very divergent in America and here; but it is the common origin of the law, and the common desire to ensure its fulfilment in the welfare of society, which form the bond of union—that and the personal esteem and affection which spring up when individuals meet.

Law Schools in America.

THE FOUNDATION of a lawyer's career is in the Law School. This may not always have been the case, but it is becoming increasingly so. Law Schools are multiplying in England, but we have not the vast expanse of territory of the United States, and we cannot expect to rival the number of their Law Schools. We have before us the Statistics of Legal Education taken from the Eighteenth Annual Report of the Carnegie Foundation for the Advancement of Teaching (New York, 1923). Under the heading "Residential Degree-Conferring Law Schools" some 150 are given. California alone has eleven; Illinois has the same number. Connecticut has one, the Yale School of Law, but Yale stands for a good deal. Still more famous is Harvard, about which there are great stores of interesting information in the *Centennial History of the Harvard Law School* (1817-1917) which was published in 1918; or anyone who wants to bring his knowledge of this famous School up to date can read a pamphlet—*The Harvard Law School and The Harvard Law School Association*—issued in January, 1923.

Harvard and the Case System.

THEY DO THINGS pretty thoroughly at Harvard. In an article "A Library of Living Law," by Professor MANLEY O. HUDSON, we read—"To understand the recent Law of Property Act in England one must know the reports of Royal and Select Commissions for the whole of the past century." And so Professor MANLEY wants to collect them all in the Harvard Library. How many of us are going to study Lord BIRKENHEAD'S Act in that way? And there is the system of teaching by cases, which first came into use at Harvard in the '70's under Dean LANGDELL, and which is of extreme interest to teachers of law here. But Dr. WINFIELD has just been explaining it in his paper "The Harvard Law School" in the *Journal of the Society of Public Teachers of Law* for 1924. From that we learn that in the States there is a close connection between the law school and the legal profession. He was told on good authority: "The New York law firms are only too glad to take into their offices men who have been placed in the first or second class at the final examinations, and there is not much difficulty in settling anyone with the Harvard law degree with some firm in other cities in the United States." We doubt whether a law degree goes as far over here. But the Harvard man appears to be fitted for practice by his three years' training in a post-graduate law school, and no doubt conditions here and over there are different.

Americans and the Middle Temple.

IN HIS INTERESTING Souvenir of the American Visit on the "Ancestral Home of the Common Law," Mr. CAMPBELL LEE draws attention to the curious fact that at all periods of the last three centuries into which research has been made the Middle Temple has been the favourite Inn of Americans who read for our Bar. A book called "American Members of the Inns of Court," compiled by Mr. E. ALFRED JONES, has just been published. This contains a list of over 330 Americans, 236 born prior to 1800 and 94 since that date, whose membership of the English Bar has been ascertained from their biographies or other records. Of these, 196 were members of the Middle Temple, seventy of the Inner Temple, and about thirty each of Lincoln's Inn and Gray's Inn. This interesting preference of Americans is no doubt due to the same causes which make the Middle Temple the Inn which overseas students from our own colonies also prefer. The reason probably is this. Lincoln's Inn is essentially the home of Chancery specialists, and Gray's Inn is rather a home of literary and academic members of the Bar than of practitioners; hence the overseas student, who is not going to specialize in Chancery, naturally chooses the Temple. But the Inner Temple places some slight obstacles in the way of students who are not members of Oxford, Cambridge, Dublin, or London Universities; whereas the Middle Temple offers equal facilities to the graduates of all chartered universities in the British Empire. Hence the student from abroad, like the Scottish student, naturally gravitates to the Middle. "*In Medio tutissimus ibis*," as OVID prophetically said.

The Catholicity of the Inns of Court.

MR. LEE, himself an ex-professor of CORNELL University, draws attention to the unique catholicity of the English Bar. Unlike the United States Bar and that of nearly all other countries, it opens its portals to students from all alien nations; no declaration of allegiance is either required or implied when one of its students is called to the Bar. Hence the large number of foreigners who have been called at one or other of the Inns of Court, although they do not practise. This catholicity is shown also by the fact that even a King's Counsel need not be a British subject. The patent under the Great Seal which confers this dignity and mark of precedence has been granted to Americans in at least three cases. One of these was JAMES BENJAMIN, K.C., author of the treatise on "Sale," who came to England from Virginia after the American Civil War, and is said to have earned a greater income at the Bar than any of his successors except Sir JOHN SIMON. The other two are more recent creations, namely, Mr. R. NEWTON CRANE and Mr. J. ARTHUR BARRATT, who have been practising in our Courts for thirty and twenty-three years respectively. And the famous Lord LYNDHURST is alleged by CAMPBELL to have been at all times an American citizen, who never received naturalization and whose right to sit in the House of Lords, although never challenged, was considered very doubtful.

Templars who Signed the Declaration of Independence.

AS AN ENTHUSIASTIC American citizen who is also a Templar, Mr. CAMPBELL LEE takes pains to ascertain the names of members of the Temple who have borne a great place in the legal and policital history of America. His researches have had some startling results. Five young lawyers trained in the Temple were members of the Congress of Delegates from the thirteen colonies who signed, in 1772, the Articles of Confederation, which resulted in the great Rebellion. These were JOSEPH REED, afterwards President of the Executive Council of Pennsylvania, who declined the Chief Justiceship of that State; THOMAS MACKEAN, of Delaware, afterwards Governor and Chief Justice of Pennsylvania; JOHN DICKINSON, of Pennsylvania; JOHN BANISTER, of Virginia; and JOHN MATTHEWS, afterwards Governor and Chancellor of the State of South Carolina. And, again, in 1776, the epoch-making Declaration of Independence was signed by five Templars. Their names are EDWARD RUTLEDGE, afterwards

Governor of South Carolina; THOMAS MACKEAN, already mentioned as having signed the Articles of Confederation; THOMAS HAYWARD, THOMAS LYNCH, and ARTHUR MIDDLETON, all of South Carolina and the first of whom became a Judge.. And yet again, when the American Constitution, in its final form, was drafted, six of the plenipotentiaries who signed the authoritative draft were members of the Middle Temple. These were LIVINGSTONE, Governor of New Jersey; INGERSOLL, Attorney-General of Pennsylvania; BLAIR, a Judge of the Supreme Court; RUTLEDGE, Chief Justice of South Carolina; PINCKNEY, Governor of South Carolina; and a second PINCKNEY, who was afterwards Ambassador to France and the famous rival of AARON BURR. Mr. CAMPBELL LEE is to be congratulated on the patient research which has disclosed this remarkably intimate connection between the Inns of Court and the great men who made the New America in 1776.

American Ambassadors and the Middle Temple.

THE REMARKABLE affinity of the Middle Temple for the American Bar has been shown in a still more striking way during the twentieth century. The Middle Temple Benchers have called to the Bench as honorary members, in succession, three very recent American Ambassadors, each of whom has been a distinguished practitioner in his own State. Mr. RUFUS CHOATE was thus honoured. So was Mr. DAVIS, now the Democratic candidate for the American Presidency. A month ago the Benchers invited the present Ambassador, Mr. FRANK B. KELLOGG, who has just succeeded Mr. DAVIS, to share the same honour. Since the American Ambassadors to England are almost invariably lawyers, with special knowledge and experience of International Law, it almost seems as if this thrice-repeated rite might become a precedent followed as of course.

Extensions of Time in Admiralty.

THE DECISION of Mr. Justice HILL in the *Arraitz*, *Times*, 8th inst., is interesting, since it illustrates the sort of circumstances in which the Court will exercise its statutory discretion, conferred by the Maritime Convention Act, 1911, to extend the time for commencing a collision action *in rem* after the two years period of limitation prescribed by the same statute has expired. In February, 1918, a collision occurred in New York Harbour between a Spanish-owned ship and one, an American Army Transport owned by the United States Shipping Board. The Spanish owner commenced in July of the same year an action *in rem* in the American courts; various cross-proceedings and interlocutory "alarums and excursions" diversified the course of this action, and finally in August, 1923, the parties agreed to an order for its discontinuance. Thereafter the U.S. Shipping Board brought an action *in rem* in the British Admiralty Court, within whose jurisdiction the *Arraitz* had meantime arrived, so that it could be arrested here. They applied for and obtained an extension of time, subject to the Spanish owner's right to take objection; and this objection was in due course made—but without success. Mr. Justice HILL took the view that since proceedings elsewhere had been discontinued by consent, and since the ship could not have been proceeded against by an English action *in rem* within the two years period, the U.S. Shipping Board were entitled to an extension of time, provided they commenced proceedings here, as they had in fact done, the moment the vessel came within our Admiralty jurisdiction.

The Prevention of Eviction Act, 1924.

WE PRINT elsewhere the text of the Prevention of Eviction Act, 1924. We appear to have given it correctly last week, though it was not altogether easy to follow the amendments in the two Houses. We must defer till next week the further consideration of it.

Divorce Practice.

WE PRINT under "New Orders" a direction as to Divorce Practice issued by the Senior Registrar. It is issued in view of the decision of the House of Lords in the *Russell Case*, and will be followed pending any direction by the Court.

Westminster Hall: the *Aedes Sacra* of Anglo-Saxon Law.

IT WAS a happy thought which led Lord HALDANE to arrange for the reception of our American and Canadian brethren of the long robe within the historic walls of Westminster Hall. For nearly ten centuries Westminster Hall was the seat of the Three Kings' Courts which administered the Common Law of England. Not till the great amalgamation of fifty years ago did the lion and the lamb, law and equity, lie down in peace together in the new Royal Courts of Justice, situated midway between the Temple and Lincoln's Inn. When America dissolved her political marriage with the British Empire, in 1782, the Law of England—which is also the Common Law of the United States—was interpreted and enforced by judges who sat in Westminster Hall. There could be no fitter place for English and American lawyers to meet in friendly greetings.

But Westminster Hall is far from being merely interesting as the seat of the old courts of King's Bench, Common Pleas, and Exchequer. It is one of four great buildings which, all grouped on ten acres of ground, symbolize every momentous institution of the English People—the Houses of Parliament, Westminster Hall and its abandoned law courts, Westminster Abbey, where our Kings are crowned, and the School sheltered within the Abbey Cloisters—these together represent Democratic Government, the Reign of Law, the Majesty of Protestant Christianity, and the British system of Public Schools, four institutions which, between them, have helped more than any others, to build up that magnificent yet simple type of civilization for which the English-speaking world stands out among other nationalities in the world of to-day.

The Abbey is the central figure of these four institutions. Near it the Norman Kings, who were crowned in one of its chapels, set up their palace, St. Stephen's. In a chapel of that palace there met, first, the Great Council, and afterwards, the Three Estates—Clergy, Nobles and Commons—who constituted the King's Parliament. In the entrance hall to the Palace the King—in the person of his judges—sat at his gate, as it were, to redress wrongs and see that justice was done to the meanest of his subjects. To train his courtiers, monks of the near-by Abbey established in the cloisters a School, disciplined on strict monastic lines, destined to become the originator and examplar of the Public Schools which, ever since then, have trained the governing classes of England in the art of ruling at once their own appetites and the races committed to England's charge. Until quite recently the boys of Westminster School possessed the special privilege of admission, as of right, to the Speaker's gallery in the House of Commons, and to the body of the Courts in Westminster Hall; but both privileges have fallen into desuetude since the migration of the Courts to the Strand. But the admission of these schoolboys, scions of a ruling class, to attend parliamentary and forensic debates, symbolizes the connexion between the spirit of English Justice and the ideals of our Educational System. The legal spirit of fairplay, and a fair hearing to both sides, was absorbed by the boys of Westminster School who freely used their forensic privileges; thence it spread to the public schools, which modelled themselves upon Westminster: thence it has made its way into the very bones and marrow of the Englishmen who go out to govern our dependencies or sit as justices of the peace in our magisterial courts at home.

Westminster Hall, however, is the scene not only of the normal administration of English justice throughout a series of centuries, but also of its abnormal administration in those terrible days when the safety of the State and of our law and of our civil liberties has been sought to be guarded by methods of blood and iron. It is the scene of Impeachments, of Attainders, and of High Treason Trials without number. Here STRAFFORD was brought to the block by the stern Puritans whose principles he had abandoned: MACAULAY in one of his most eloquent sentences, writes of STRAFFORD'S trial: 'The haughty Earl overawes posterity as he overawed his contemporaries, and excites something of the same interest

which his defence excited in Westminster Hall." Tyranny and Treason alike, for many centuries of English History, were brought to book in Westminster Hall.

The Hall was added to St. Stephen's Palace in the reign of WILLIAM RUFUS. It did not exist in the days of the Conqueror, nor, indeed, had he in his temper and attitude of mind anything of the spirit which the Hall has breathed into English life. WILLIAM the Conqueror was a military ruler who held England as CLIVE or WARREN HASTINGS or WELLESLEY held India, and surveyed out the country for revenue purposes, in his ever-memorable "Domesday Book," just as those early rulers of India parcelled out the Indian Presidencies into the districts of Tax-collecting Magistrates. But when his troubled and militant spirit had winged its flight, the English love of liberty grew up again, and the hall, built by his son to house his *Curia Regis*, became the symbol of "Equality before the Law." Justice, at the very doors of the Royal Palace, is a noble ideal; it is enshrined in the origin of Westminster Hall. England and the United States join hands in extending again and yet again the domain which is subject to the Legal System born in the old Palace doorway.

Abolition of Copyhold Tenure.

ONE of the most useful reforms made by the Law of Property Act, 1922, is the abolition of copyhold tenure. Of great historical and antiquarian interest, copyhold tenure has long ceased to be of practical value, and has become merely a source of difficulty, trouble and expense in conveyancing. The change is effected by Parts V and VI of the Act, the former being entitled "Abolition of Copyhold and Customary Tenure," and the latter "Extinguishment of Manorial Incidents."

Enfranchisement of Copyholds.—Part V has the sub-heading "Abolition of Copyholds" and opens with the following provision:—

> Section 128 (1). As from the commencement of this Act, every parcel of copyhold land shall by virtue of this Act be enfranchised and cease to be of copyhold or customary tenure, and land so enfranchised is in this Act referred to as "enfranchised land."

It would appear from the title and sub-heading, and from the language of this provision, that the draftsman has not quite made up his mind whether copyhold tenure and customary tenure are synonymous expressions or not. The main title suggests that they are distinct. The sub-title—which is followed by no further sub-title, and is, indeed, unnecessary—suggests that only copyhold tenure is in question. And s. 128 (1), which starts with copyhold land and provides that it shall be enfranchised and cease to be of copyhold or customary tenure, indicates that the two expressions are after all synonymous. And this is, indeed, the case. Without going into minute distinctions the tenures to be dealt with are (1) ordinary copyhold; (2) privileged copyhold; and (3) freehold held of a manor and subject to customary incidents.

In ordinary copyhold, the tenant is expressed to hold at the will of the lord according to the custom of the manor: his title is evidenced by copy of court roll; and alienation is effected by surrender and admittance. In privileged copyhold—usually called customary freehold—while the land is held according to the custom of the manor, it is not held at the will of the lord, and there are alternative modes of alienation; that is, surrender is not essential, though there must be admittance. Against, apparently, the opinion of COKE, but in accordance with that of BLACKSTONE, the view has prevailed that this is copyhold and not freehold tenure, and that the freehold is in the lord: see CHALLIS, Law of Real Property, 3rd ed., p. 30; LEAKE, Law of Property in Land, 2nd ed., p. 59. Where land held of the lord of a manor is subject to customary incidents, but admittance is not necessary to complete the title of the tenant, the tenure is freehold: see *Passingham* v. *Pitty*, 17 C.B. 299; *Merthens* v. *Hill*, 1901, 1 Ch. 842.

Abolition of Customs incident to Freehold Land.—Where land is already freehold, there can be no question of enfranchising it, and all that is required is to extinguish the customs to which it is subject. This is done by s-s. (3) of s. 128:—

> Section 128 (3). Modes of assurance authorized by special custom are hereby abolished; and all land (including land held in free tenure but subject to custom) shall be dealt with as land held in free and common socage discharged from custom.

The result seems to be that the term "customary" is inserted in the main title and in s. 128 (1) only as a precaution—to cover the possibility of privileged copyholds not being included under "copyhold." It is, perhaps, a concession to the erroneous equivalent "customary freehold." But in any case, neither the main title nor the sub-title is wide enough, for they do not include land of freehold tenure subject to customary incidents which, as we have just seen, is included in the general provision of s. 128 (3). This, however, is the only place where it is dealt with in Part V, for the rest of this part is concerned only with enfranchised land; that is, copyhold land which is enfranchised by the Act. Other land subject to manorial incidents is not mentioned again till Part VI.

Copyhold land will, as we have seen, be automatically changed into freehold, but this apparently simple change leaves a great deal of detail to be provided for. What is to become of the manorial incidents? How are mortgages, whether completed by surrender and admittance or not, to be dealt with? What is to become of rights of common, of the lord's interest in mines? And so on. The answer to most of these questions will be found in Sched. XII for we read:—

> Section 128 (2). The enfranchisement by virtue of this Part of this Act shall have the effect stated in the Twelfth Schedule to this Act.

Retained Manorial Incidents.—But there is a proviso saving certain manorial incidents: (*a*) quit and other rents; (*b*) fines, reliefs, heriots, and dues (heriots being converted into a money payment); (*c*) forfeitures (except for alienation); and (*d*) rights to timber—generally, the manorial incidents which have a money value—and the land remains subject to these until they are extinguished under Part VI. The rest of Part V is mainly occupied with provisions for ensuring that they shall be duly paid until extinguishment. It is a little singular that the Act has no short expression for these manorial incidents. It refers to them as "the manorial incidents saved by this Part of this Act," or equivalent words. We propose to call them the retained incidents.

Thus, as long as the retained incidents exist, a fetter is placed on alienation which will have to be carefully attended to in conveyancing practice. It is a fetter similar to that under the amended system of registration of title. The legal estate passes at once, but the assurance will become void so far as regards the conveyance of the legal estate unless it is produced to the steward within six months: s. 129 (1). "Assurance," for this purpose, includes an assent and a vesting order and vesting declaration: s. 9 (9). The object of producing the assurance to the steward is to secure that all the retained incidents shall have been paid or satisfied up to date. But the safety of the legal estate is not made directly dependent on this. It depends merely on production of the assurance to the steward. Payment of the incidents is secured indirectly by providing that, on production of the assurance and on payment of all the retained incidents up to date, the steward shall indorse on the assurance a certificate of production, and that certificate will be conclusive evidence of production: s-ss. (2) (3). Since the certificate will be a necessary part of the title, this will secure the payment of the retained incidents as effectively as if the safety of the legal estate was made dependent on the steward's acknowledgment of payment as well as of production. In the case of a vacancy in the office of steward, his duties may be transferred by the Lord Chancellor to the Land Registrar: s-s. (4). Until the retained incidents are extinguished, the same fines and heriots will be payable as before: s. 130 (1); and the right to a double fine on alienation by an unadmitted mortgagee (see *Hall* v. *Bromley*,

35 Ch. D. 642) is preserved: s-s. (4)—an instance of the care with which the scheme has been worked out; but no fine is payable in respect of a mortgage until conveyance by the mortgagee in exercise of his power of sale. The steward will be entitled to such fees as the Minister of Agriculture prescribes: s. 131; and the lord's right to forfeiture is preserved, but subject to relief on conditions copied from s. 14 of the Conveyancing Act, 1881.

The Effect of Enfranchisement.—Sched. XII prescribes the effect of enfranchisement otherwise than in respect of the retained manorial incidents. The land becomes freehold land, with full right of alienation, free from suits, services, and fealty; the lord's right of escheat becomes *bona vacantia* of the Crown; customary modes of descent are abolished, and also customs of dower, freebench, and curtesy, with a saving in case of death before the commencement of the Act. Of special importance is the provision as to mortgages. Under the new system of freehold mortgages the legal fee remains in the mortgagor and each successive mortgagee takes a legal estate by demise, and copyhold mortgages have to be brought into line. This is done by s. 1 (*f*) of Sched. XII, which provides that "every mortgage of the copyhold estate in the land shall become a mortgage of the land for a term of years absolute," and this general enactment is explained by two sub-paragraphs. First, it is to make no difference whether the mortgage has been effected by surrender, with or without admittance, or by a covenant to surrender. In each of these cases the mortgageee takes a term of years subject to cesser on redemption: that is, each of the recognised forms of copyhold mortgage will give the mortgagee a legal estate by demise. But this means that an equitable mortgage—*i.e.*, by covenant to surrender, or by surrender not followed by admittance—will become a legal mortgage and the priorities may be upset. For one case, provision against this result is made by the second sub-paragraph:—

> "(ii) Where at the commencement of this Act the copyhold land has been surrendered to the use of a mortgagee, without notice of a previous covenant to surrender contained in another mortgage, that mortgagee shall not be deemed to be a subsequent incumbrancer as respects the last mentioned mortgage."

Suppose, covenant to surrender by way of mortgage to A, followed by conditional surrender to B without notice. This is the case of *Oxwich* v. *Plumer*, Bac. Abr., Mortgage, E. 3: Fisher on Mortgages, 6th ed., para. 1123; and apparently both mortgages are equitable, for a mortgagee by surrender takes no legal estate till admittance: Fisher, para. 41. But the surrenderee, B, takes a legal interest under the surrender which, in the absence of notice, entitles him to priority over A's prior mortgage by covenant to surrender, which is purely equitable, and this appears to be the ground of the decision in *Oxwich* v. *Plumer*; though it is curious to find a case like this specially provided for. The simpler and safer way, surely, would have been to introduce a general provision saving priorities. And, indeed, s. (2) of this Schedule does provide that "the enfranchisement shall not, except in this Act mentioned, affect the rights or interests of any person in the enfranchised land under a will, settlement, mortgage, or otherwise by purchase"; but these last words "by purchase" seem to be out of place. Have they slipped in by mistake? The provisions as to mortgages make it necessary to specify carefully in whom the freehold estate in fee simple is to vest on enfranchisement, and this is done by Sched. XII, s. 8. Shortly, it vests in the copyholder, and mortgagees, as we have just seen, take leasehold interests. It should be noticed that enfranchisement is not to deprive the tenant of any commonable rights: Sched. XII, s. (4); nor is it to affect the rights of landlord or tenant in mines: *ibid*, s. (5). Provision for working the mines in such cases is now made by the Mines (Working Facilities and Support) Act, 1923: see *ante*, p. 414; and a grant by the tenant of rights of working mines may be part of a compensation agreement on the extinguishment of manorial incidents: s. 138 (12).

Extinguishment of Manorial Incidents.—As we have seen, the enfranchised land will at first remain liable to the retained manorial incidents. Part VI of the Act provides for their extinguishment. For this a period of ten years is allowed, and within that time the lord and the tenant may agree upon the compensation; if they do this, the incidents are extinguished upon the execution of the agreement; or either may serve on the other a notice requiring the compensation to be ascertained, but the lord cannot serve such a notice for five years. If there is no such agreement or notice, then the incidents are extinguished at the end of ten years. How the compensation is to be ascertained in this case does not seem to be expressly stated. An agreement may be effected either independently of the Copyhold Act, 1894, or under Part II of that Act as applied by this Act. Where a notice is served then, apparently, the compensation will be ascertained as though it were a compulsory enfranchisement under Part I of the 1894 Act. But it would be useless to pursue this matter further, for Part VI is drafted in a very confusing manner, and it is to be hoped that it will be introduced in one of the Consolidating Bills in a new form. The compensation, when ascertained, may be a gross sum, to be charged on the land as a first charge till paid, or a rent-charge. Purchasers, of course, will have to enquire as to these charges, but they will not, in the absence of special agreement, be entitled to call for the title of the person entering into the compensation agreement.

On Some Points of Customary Descent.

I.

In this Article we shall first consider customary descent as applying to freeholds in fee simple, next as applying to copyhold customary fee, then, as applying to estates tail, and lastly, some miscellaneous points. And we shall, as far as possible, keep the case of freeholds and copyholds distinct, for it by no means follows that a custom as to descent of copyholds which may in law be valid, will, as applied to freeholds, be valid also.

There can, of course, be no question that a custom is valid which gives the descent of freeholds partibly amongst all males of the same degree and their representatives, *ad infinitum*. This is the custom of Gavelkind Lands in Kent,[1] that is to say, of land in that county, held at the time of Domesday-book, in socage, and not in Knight-service,[2] or in the ecclesiastical tenure of frankalmoign.[3]

Again, the law will very clearly allow the youngest son to exclude the eldest: this is the well-known custom of Borough English, which, as a strict custom of Borough English, can exist only in an ancient borough.[4]

But a custom of descent in the nature of gavelkind, or in the nature of Borough English, can exist in any district in which the law allows such a custom to be alleged, and the right of junior descent, can be extended to brothers, nephews, uncles, etc.[5] The court, however, on a finding that the descent is Borough English, or in the nature of Borough English, will only carry the descent to the youngest *son*[6]; if descent is desired to be carried to the youngest brother, etc., then the extension of the custom to that effect must be specially proved; though, perhaps, under a pleading alleging custom, in the nature of Borough English, evidence of the extension of that custom might be let in.[7]

(1) *Re Chenoweth*, 1902, 2 Ch. 488; *Hook* v. *Hook*, 1 H. & M. 43; for instance of partibility of copyholds amongst all sons, see *Re Hudson*, 1908 1 Ch. 655.
(2) *Gouge* v. *Woodin, Robinson, Gavelkind* (5th), 44-46.
(3) *Doe d. Lushington* v. *Llandaff*, 2 B. & P., N.R. 491.
(4) *Litt.*, s. 165, 211; *Co., Litt.*, 110*b*; *May* v. *Street, Croke El.* 120.
(5) *Co., Litt.*, 110*b*, *Hargrave's Note* 4; as to copyholds, *Re Smart*, 18 Ch. D.; *Trash* v. *Wood*, 4 M. & Cr., 324; *Payne* v. *Barker, Orl. Brid.* 13; *Reeve* v. *Malster*, Cro. Cas. 410, and many other cases.
(6) *Rapley* v. *Chaplin, Godb.* 166; *Rolle Abr., Descent*, p. 623, pl. 2; *Reeve* v. *Malster*, Cro. Car. 410, 1*st par.*
(7) *Rider* v. *Wood*, 1 *K. & J.*, 644.

As the law will allow by custom the younger brother to share with and exclude his elder brother of the whole blood the heir-at-law to the common father, a fortiori, it will allow any single female of the same degree to exclude another of that degree; as an elder[8] or younger daughter[9] to exclude her sisters; all of whom at common law would take equally as parceners.. As the law will allow a custom to qualify descent; so that custom itself may be *restricted to particular occasions of descent*. Thus a custom in the nature of Borough English may be confined to descent to the younger son only of a man's first wife[10]; or to descent of the land in fee simple, leaving descent of an estate tail in the same land to the common law.[11]

In the nature of things there can, we think, be no possible legal objection to a custom giving descent of freeholds partibly amongst all children, female as well as male.[12] But we conceive that a daughter could not validly by any custom exclude altogether a brother or his representative from a descent of *freeholds*.[13]

It does not follow that, because the law will allow any custom of descent of copyholds—which in law were and are strictly but tenancies at will—as, for instance, a surviving widow to take the inheritance in exclusion of her husband's children,[14] a sister to take in exclusion of her pre-deceased brother's son[15], an eldest daughter (failing heir male) to take for life only[16]; that, in the case of application of such a custom to freeholds, the law would not hold such custom to be void as repugnant or as unreasonable.

At the least, it seems clear that a custom excluding all females absolutely, and altogether, from heirship to freeholds, would be void; and we should conceive a fortiori that males could not be altogether excluded. By this we do not mean, of course, that a particular selected male or female as youngest son or eldest daughter, cannot exclude brothers or sisters.

In *The Tanistry Case*[17] it was held that a granddaughter, a daughter of a predeceased son, could not be excluded in favour of a *collateral* heir male of her grandfather: though the custom was found, that the lands descended to the eldest and most worthy man of the blood and name, and that the daughter or daughters were not inheritable. As to the negative part of the custom it was held that it was void, as being repugnant to the nature of fee simple to exclude the heir female should heir male [of the body] fail; as to the positive part of the custom it was void as originating in physical violence, and also void as uncertain as offering no definite measure for ascertaining the heir. Of course, a custom of descent cannot be alleged in every place, otherwise England would have had no common law descent, but a mass of jarring customary descents: it must be alleged as of some place of repute, as of a county, city, borough, hundred, honour, manor or the like.[18] For this reason, when it was desired to establish that the custom of Gavelkind in Kent allowed of devise, a great point was made of instances of devises of land in upland towns in Kent made before the Statutes of Devises of Hen. 8.[19] But it seems clear that in the same place there may be legally differing customs of descent as to freehold[20] tenements differently circumstanced; as to descent of copyholds, such diversity is relatively common.[21]

A custom of descent inherent in the land itself, as opposed to a custom of descent of a particular customary estate in the land, *e.g.*, descent of copyhold, can be altered only by Act of Parliament clearly operating such alteration, and could not be changed by a subsequent change of tenure of the land, even by the King. Thus, if the Manor of Sherfield were anciently parcel of the Manor of Odiham, and the custom of descent of land held of Odiham was, failing sons, to the eldest daughter, the fact that years later Sherfield has been severed from Odiham, surrendered to the King, and been granted out by him in Grand Serjeanty, a species of the great military tenure of Knight-service, will not destroy the custom of descent to the oldest daughter.[22]

So, if, as is the presumption, land in Kent was socage, *i.e.*, gavelkind, at date of Domesday, the fact that it has subsequently been surrendered to and granted out by the King in frankalmoign, will not prevent the ancient partible descent reviving when the land again comes into lay hands. But as tithes could not be held by laymen till the dissolution of the monasteries, there could be no ancient partible descent thereof, and they will descend as at common law, though leviable out of gavelkind land.[23]

The King, indeed, at one time claimed[24] a Prerogative, to entitle not only his tenants *in capite*, but also undertenants, to disgavel their land from the custom of partible descent: but this claim, never fully acquiesced in, was abandoned by the Disgavelling Acts which began temp. Hen. 7. And an Act of Parliament will not be construed as altering inherent custom of descent, unless that is its clearly expressed intention: thus an Act confirming the King's grant out again in socage, of land in Kent originally held by Knight-service, will not bring in the custom of gavelkind descent.[25]

So the Disgavelling Act, 2 & 3 Ed. 6, in spite of the strength of the earlier words used, was held to be limited to abolishing the old custom of partible descent, and not as also abolishing the old custom of devise of gavelkind lands.[26] And if tenant for life of gavelkind land in Kent, who is owner of fee simple in Middlesex, procures an Order of Exchange, giving the Middlesex land to the settlement, and the Kent land to himself in fee, though the Act exchanges the tenure, the Middlesex land will not descend as in gavelkind, nor the Kent land as at law. The tenures of each are socage, though of different species of socage.[27]

(To be continued.)

(8) *Co. Litt.*, 140*b*; *Godfrey & Bullock*, 1 *Rolls Abr.* 623, pl. 3; *Watkin's Copyholds* (*4th*) *II.* 480 (*Bray*); *Moulin* v. *Dallison*, Cro. Car. 484; as to copyholds, *Denn d. Goodwin* v. *Spray*, 1 T.R. 466; *Newton* v. *Shafto*, 1 Sid. 267; *Doe d. Foster* v. *Simmon*, 12 East, 62, and many other cases.

(9) *Co. Litt.*, 140*b*, as to copyholds *Re Smart*, 18 Ch. D. 165; *Locke* v. *Southwood*, 1 M. & Cr. 411; *Bushe* v. *Locke*, 3 Cl. & F. 721.

(10) *Co. Litt.*, 140*b*.

(11) *Chapman* v. *Chapman*, *March*, 54; *Co. Litt.*, 110*b*, *Hargrave's Note* 4; *Robinson* (*5th*) 241; *Robinson* (*1st*) *Appendix*. I sometimes cite the *1st Ed. of Robinson Gavelkind*, the only edition published in that great writer's life.

(12) See the ancient customs of *Wareham* and *Exeter*, temp. Ed. I, stated *Robinson* (*5th*) 36; *Clements* v. *Scudamore*, 2 *Lord Rayn*, 1024: as to copyholds; *Doe d. Raper* v. *Lonsdale*, 12 East 39.

(13) See *Locke* v. *Colman*, 2 M. & Cr., p. 636.

(14) *Locke* v. *Southwood*, 1 M. & Cr. 411; *Bushe* v. *Locke*, 3 Cl. & F. 721.

(15) *Locke* v. *Colman*, 1 M. & Cr., p. 430; 2 M. & Cr. 43, 636.

(16) *Newton* v. *Shafto*, 1 Sid. 267.

(17) *Davis Reports*, 29, 34, 35. See also *Newton* v. *Shafto*, 1 Sid. 267 cited, *post*.

(18) *Co. Litt.*, 110*b*, *Hargrave's Note*.

(19) *Robinson*, *Gavelkind* (*5th*), 189.

(20) In the Town of Nottingham there were two customs of descent Borough English as to the English town, common law as to the French Town; *Robinson* (*5th*) 230, 231.

(21) *Watkins* (*4th*) *II*, p. 493 (*Framfield*): p. 501 (*Mayfield*); p. 539; (*Wadhurst*): *Elton Copyholds* (*2nd*), 131, 132; *Robinson* (*5th*), 240, 241.

(22) *Moulin* v. *Dallison*, Cro. Car. 484. So where one seised of land subject to custom of Borough English made feoffment to use after Statute of Uses of himself and the heir male of his body according to the course of the common law, his younger son took the entail by descent; *Anon*, *Dyer*, 179, pl. 45.

(23) *Doe d. Lushington* v. *Llandaff*, 2 B. & P. (N.R.), 491.

(24) *Robinson* (*1st*) 52-65.

(25) *Gouge* v. *Woodin*, *Robinson* (*5th*), 44-46.

(26) *Cotton* v. *Wiseman*, 1 Sid. 135; *Hardres*, 325, 1 Lev. 79; *Robinson* (*5th*) 69-72.

(27) *Minet* v. *Leman*, 20 Beav. 269; 7 De G. M. & G. 340; *Elton*, *Tenures of Kent*, 158-160.

Mr. William Francis Farrer, of St. James's-square, S.W., and of the Salutation, Sandwich, Kent, solicitor, late of Messrs. Farrer and Co., of Lincoln's Inn Fields, who died on 3rd June, aged sixty-five, eldest son of the late Sir William James Farrer, left unsettled property of the gross value of £297,269, with net personalty £219,100. His will (including description, address, and nomination of executors) consists of seventy-eight words, and thereby he left all of his property to his two brothers, Gaspard Oliver Farrer, merchant, and Henry Lefevre Farrer, solicitor, both of St. James's Square, S.W. The duties on the property at this valuation will amount to about £74,000.

Blackstone and the Common Law in America.

To-day the Common Law of England is also the Common Law of America, or rather of all the forty-eight States which make up the great Republic, except some half-dozen which, owing to historical accidents, possess French or Spanish law as the basis of their system of jurisprudence. Indeed, in the United States the old Common Law is more firmly rooted than in England. For since 1873 our ancient and ultra-archaic system of pleadings has been obsolete, but in the United States it still reigns dominant almost everywhere, except in the Federal Courts, for which Congress has enacted a modernized code of procedure. "Bullen and Leake" has still a value for the American lawyer which it is slowly but surely losing in England.

But, curiously enough, this survival of the old Common Law in the United States was not due either to tradition or to policy, but to a purely personal accident. In 1783, when the Thirteen Confederated States achieved their Independence, the two dominant parties, Democrats and Federals alike, were possessed with an intense hatred of England. They wanted to get rid of everything English. It was French models which appealed to them, and France—in all respects except her Roman religion and her absolute Monarchy—which they desired to copy. A Constitution was drawn up which was supposed to have got rid of every shred of English Monarchial tradition. It was intended to draft a Code of the Common Law based largely on Roman Law. Hamilton, having finished his Herculean task of drafting the Constitution and the Memorandum on Fiscal Policy—still the most able exposition of the protectionist case in existence—was engaged on the task of adapting Roman-French Law to the conditions of America, when his untimely death in a political duel deprived the world of what would certainly have been a unique code. Before others could take up the task fallen from his hands, the French Revolution had broken out, and God-fearing New Englanders and Virginians shrank back affrighted at its atheistical excesses. Those who desired a Frenchified code were denounced as "Jacobins," and rapidly driven out of public life. The task of framing a novel code was abandoned, and the judges were left to discover principles of law for themselves.

In this, the judges of the Thirteen States, forbidden by patriotic sentiment, as well as the resolutions of their several State Assemblies, any recourse to English Case-Law, had to get their law from some source. Had there been in existence a good text-book of Roman Jurisprudence they would probably, like Hamilton, have had recourse to it. But none such at that time existed in English. On the other hand, Blackstone's "Commentaries" had been published in 1766, and an American edition had been issued in 1771, just on the eve of the Declaration of Independence. It had spread like wildfire all over the Colonies, where few lawyers could afford to possess a law-library, just as the Halsbury "Laws of England" has spread to Fiji Islands, West Indian Crown Colonies, African Protectorates, and is often the complete law-library of court and practitioner alike in these remote seats of English Law. Every American lawyer possessed a Blackstone. Every student read it. It was accepted as gospel and gained a reputation almost of sacro-sanctity. It was quoted in every court and relied on to support the judgments of the bench by every colonial judge.

In these circumstances, unable to use Case-Law, and finding no convenient source of Roman Law present, the judges of the United States turned to Blackstone for the important dogmas of the Law, much as Protestants of the Seventeenth Century turned to the newly-translated Bible as a justification for their doctrines. "Blackstone" became the Common Law of America. But Blackstone, as a matter of fact, is the most conservative of lawyers. He was old-fashioned even in his own day. He cared nothing for Equity and writes of it almost with contempt. He wrote before Mansfield had immensely developed our Common Law by importing into it, under the guise of the Law Merchant, at least a dozen pure doctrines of Equity. Indeed, at that period, old-fashioned lawyers in England were denouncing this new spirit of innovation in our Common Law. Pepys, father of Lord Chancellor Cottenham, and himself a Master in Chancery, writing about 1760, regrets the tendency of young lawyers to desert Common Law for Equity, "which requires no knowledge of law" he says, "but merely skill in talking at large." This sounds a little strange to-day, but it was a common sentiment in the opening years of George III. We are apt to forget that not only Equity developed by leaps and bounds in the generation of Pitt and Fox; the Common Law under Mansfield showed an extraordinary aptitude for assimilating new ideas.

The United States, however, would have none of the contemporary liberal movement among the lawyers of our "effete" monarchy. They took their law from "Blackstone," and hence from him they imbibed an intense legal conservatism which has shaped American jurisprudence ever since. It is often suggested that the legal conservatism of America, which contrasts so markedly with their social progressiveness, is due entirely to the "dead hand" of a written Constitution which cannot be changed without a Constitutional amendment. This is partly true. But it is not nearly the whole truth. The devotion to Blackstone, and the refusal to consider the decisions of later English judges, is also largely the origin of this marked temper in American jurists. In 1803 Sir George Tucker published an Americanized version of "Blackstone," which amended those portions of the Commentaries which dealt with the Prerogative of the Crown, the Church, and the Feudal Manors—obviously not relevant to American conditions—and interpolated a commentary on the American Constitution. This work became the recognized text-book of American Law. It remained so for at least three generations, and has only been superseded in our own day. The Commentaries of Kent and Story, as well as Holmes' Common Law, are essentially based on the teaching of Tucker's "Blackstone."

Blackstone, himself, was a son of Oxford, the great Tory University. He was an *alumnus* of Pembroke College, the *alma mater* of Dr. Johnson, that other grand old Eighteenth Century Tory. He was the first Vinerian Professor of Law in Oxford, and as Solicitor-General and afterwards as a judge, he enforced by the prestige of great legal place the academic influence of his writings. His Commentaries were written between 1756 and 1766 in his chamber at 2 Brick Court, Temple, where he used to complain bitterly to the Benchers of the noise caused by that reveller, his neighbour, Oliver Goldsmith. During the twenty years which intervened between 1750 and 1770, one half of the most gifted youth at the Bar either attended his Oxford lectures or were pupils in his Temple chambers. There sprung up for him a reverence such as a generation ago attached to the teachings of Maitland in Jurisprudence and Alfred Marshall in Economics among their Cambridge pupils.

In those days most of the leading barristers of the Thirteen Colonies had served their apprenticeship to the Law within one of the four Inns of Court, just as do West Indian barristers of the present day. The Middle Temple, then as now, was the favourite Inn of those overseas students. Many of those young students must have been Blackstone's pupils. And when they returned home, carrying with them enthusiasm for the new teaching, they used their influence to get "Blackstone" made the compulsory text-book for students desiring admittance to the Law. In 1756 New York State passed rules which practically effected this; in 1771 Massachusetts followed suit. Other States partially followed the same system. Thus "Blackstone," and through him a somewhat antiquated and conservative pattern of the Common Law, became an integral and ineluctable part of the jurisprudence of America.

Five Phases of the Temple.

No detailed or authoritative History of the Temple, strange to say, has yet appeared, although there is no Monument of English Traditions more famous or more interesting than the ancestral home of the Knights Templars. Perhaps the difficulty of the task, which requires research into black-letter manuscripts, as yet unfingered by the academic teachers of Oxford and Cambridge, has proved a deterrent. Perhaps those best qualified by affection and professional vocation to undertake the task have been absorbed in seeking success at the capricious hands of the Goddess Themis, a jealous mistress, who will not have her favours shared with another. Be this as it may, the task yet awaits the historian.

A beginning, however, has at last been made. Mr. Bruce Williamson has published a handsome volume,* elegantly printed and adorned with eight well-chosen illustrations, which is the product of close research into Year Books and the unworked mine of materials to be found in Blackbooks and other records of the Inns themselves. But his work, massive and detailed as it is, extends only to the Stuart Epoch. And its treatment of the medieval period is somewhat cursory. The author divides his book into two parts—aptly styled "the Reign of Faith" and the "Reign of Law." But these do not exhaust or adequately delimit into periods the actual history of the Common Law Inns of Court. Between the fall of the Military Order and the rise of the legal profession, there intervened two intermediate periods, in one of which the Temple was essentially an appanage of the Royal Court, and in the other a university. It was not until the grant of Letters Patent by King James I in 1605 that the Temple was specifically devoted to the legal profession and given a monopoly, along with Gray's Inn and Lincoln's Inn, of admissions to the Bar. The omission clearly to demarcate the periods of Temple History is a flaw in Mr. Williamson's otherwise admirable and most interesting work.

The History of the Temple, indeed, falls into five clearly marked periods. In the first of these, which lasted till the

fall of the Order in the Reign of Richard of England and Philip II of France, the Temple was a home of the Knights Templars, the famous militant order of priests who were formed to wrest the Sepulchre of the Founder of Christianity from the hands of the infidel Saracen. For two centuries this great Order had an influence in France and England which bid fair to rival that of Monarch and Church. The feudal nobles of each Kingdom regarded it with bitter jealousy. It was essentially an imperial force making for foreign enterprises, for missionary effort, for the advancement of learning; its boldness of speculation awed the monks and estranged the Schoolmen. At last its enemies found it out; it was accused of heresy, witchcraft and abominable vices. These accusations were made in the same age which crushed the Albigenses and thereby ruined the growing force of romantic chivalry, and which mutilated Ablard, the earliest of the modernists in philosophic spirit and teaching, whom an unfortunate love-intrigue betrayed into the hands of bigoted theological foes, who destroyed his career under the pretence of revenge for an act of private immorality for which he had made the atonement of marriage with his partner in guilt. To be accused in such an age was to be convicted. The Grand Master and the leading spirits of the Order of the Temple were tried, convicted, and burned on an island of the Seine. The Order lost its possessions in France and England and was legally dissolved. But something of its enlightened spirit and broad philosophic teachings had made its way into English life. The Temple passed into other hands, but it carried on the Templars' tradition of chivalry and the redress of wrongs.

Reft from its old masters the Temple became an appanage of the Court. In that age it was the practice of Great Nobles to occupy Inns or Hospices in the near neighbourhood of the King's Palace at Westminster. Here they entertained suitors for the royal justice who had come from their own estates or were their less powerful neighbours. Gradually bodies of monks undertook the same office. Corporations of Gentlemen, too, who spent their lives near the Court and were known as the "King's Friends," united together to found and occupy Inns devoted to similar uses. Young men of rank came to these as pages or apprentices to receive an education in courtly life—for the Public Schools and Universities had scarcely yet arisen. These courtiers became known as the King's Sergeants, *i.e.*, those holding a Commission from the King to attend his Court. They took to acting as patrons of litigants and gradually some of them specialized as advocates before the *Curia Regis*—a natural transition from the presentation of petitions to the King himself on behalf of a client, to the presentation of his case in the form of a "pleading" to the Royal Judges delegated to execute the King's Prerogative of redressing wrongs. Thus the Temple, like many other old Inns of Court which then existed—"Court" here means "Royal Court," not "Court of Justice"—passed through two or three centuries as a home of courtiers or King's Friends, but it gradually became devoted to those of the King's Friends, or Sergeants, who took up the presentation of grievances to the King or his Judges, generally merely as a way of gaining note and reputation in order to pursue an administrative or social career near the King. Thus, the second period in the History of the Temple lasted about two centuries, the twelfth and thirteenth. But in the reign of Edward I the two societies, afterwards known as the Middle and the Inner Temple, had already formed themselves, and had devoted their attention especially to the training of advocates. Hitherto only attorneys or procurators had possessed a legal right to practice, for the King's Sergeants were not in their origin legal practitioners. But now the right of appearing as advocate to assist a "Sergeant" was confined by royal patent to "apprentices of the law," who had been pages of a "Sergeant," and the new profession of "Barristers" came into being. Its earlier members were found in any of the nine Inns of Chancery, but gradually began to concentrate in the Temple.

The Temple, however, was soon to know a third stage in its history, one almost completely novel and not very closely connected with the two which had preceded it. In the Thirteenth Century universities began to spring up all over Europe, founded by Papal Bull. These granted degrees in Law, in Grammar, and in Arts. Bologna, an older Italian University, had been purely legal, but Paris, Oxford, and Cambridge, tended to prefer granting degrees in Grammar and in Arts. Soon a need was felt for an English University, which should specialize in law and politics, for Oxford and Cambridge in those days were seminaries for schoolmasters and novices awaiting admission to Holy Order; their modern appeal to the gentry of England dates only from the Stuart period. The Temple, Lincoln's Inn, and Gray's Inn, on the other hand, were already the residence of young gentlemen seeking to be courtiers or administrators or advocates. Gradually they became organized into University Guilds or Colleges, and had conferred upon them the privilege of teaching law, and of conferring the degree of Utter Barrister. During the whole of the Tudor period, then, the Inns of Court were essentially a legal university—resembling in functions and discipline Oxford and Cambridge—through which the youthful gentry and nobility passed almost as a matter of course, just as in a later age, they were sent to Oxford or Cambridge.

The university era of the Temple came to an end with the famous Patent of James I, already referred to, in 1605. This Patent practically converted the two Temples into colleges or guilds, *not* as before for the teaching of the law, but for its practice as a profession and the control of professional interests. From that moment a change took place in the Temple. Its boy students dropped out; they went to Oxford or Cambridge and did not enter the Temple until they had finished their period of residence in those universities. The gentry and nobility, unless they intended to practise at the Bar, began to cease the old custom of entering an Inn; when they left Oxford or Cambridge they went on a grand tour or took up military service. Gradually the Inns became what they have remained ever since, essentially the homes of the Bar as a profession.

But the middle of the Eighteenth Century saw still another change, not so sweeping as the former revolutions, in the tradition of the Temple and it ushered in a fifth period; the modern phase in which large numbers of young men in all sorts of professions or vocations are called to the Bar for reasons of social status, only a few of whom either practise or seriously contemplate so doing. This period dates from the Agrarian and Industrial Revolutions which gradually made urban life dominant over rural in England, made London the social and intellectual Metropolis to the exclusion of the country cathedral cities, and created a large urban class of well-to-do and leisured youths sprung from the commercial or professional classes—a body of youths not previously known in England, and essentially the creation of the new wealth. This class came to regard the Bar or the Army as the stepping-stone to assured social status, and the Bar was easier to enter than a limited profession like the Army; moreover its discipline was less exacting. Thus the Temple gradually entered on its last great phase, that of a home ostensibly devoted to the legal profession, but in reality very largely a social and intellectual focus for interests of wide culture and variety.

*The History of the Temple. From the Age of the Knightly Order to the close of the Stuart Period. By Bruce Williamson of the Middle Temple. John Murray. 21s. net.

Res Judicatæ.

Profits Available for Dividends.

(*Cross* v. *Imperial Continental Gas Association*, 1923, 2 Ch. 553, Romer, J.; *Stapley* v. *Read Brothers, Ltd.*, 1924, 2 Ch. 1, Russell, J.)

These two cases shew that questions are still capable of arising as to when a company can treat assets as profits available for dividend. The general principle is that dividends may not be paid out of capital, but this does not mean that capital must be kept intact before a dividend can be paid. Although the capital is not intact, there may be a surplus on the revenue account: *Lee* v. *Neuchatel Asphalt Co.*, 41 Ch. D. 1. That was the case of a wasting capital asset, but it is the same in regard to an investment company: *Verner* v. *General & Commercial Trust Co.*, 1894, 2 Ch. 239. These are cases where there is a surplus on the revenue account, treated as an independent account. An accretion to one of the capital assets can also be treated as profit and made available for dividend: *Lubbock* v. *British Bank of South America*, 1892, 2 Ch. 629. And in the same way a company may set off an appreciation of capital assets against losses on revenue account: *Ammonia Soda Co. Ltd.* v. *Chamberlain*, 1918, 1 Ch. 206. But while dividends may be paid out of earned profits, notwithstanding a depreciation of capital assets, yet when it is proposed to carry over to profit a realized accretion to a capital asset, this cannot be done by reference to this single asset. The accretion is not available for this purpose unless there is an increase in the capital assets as a whole. "It is clear, I think," said Byrne, J., in *Foster* v. *New Trinidad Lake Asphalt Co. Ltd.*, 1901, 1 Ch. D. 212, "that an appreciation in total value of capital assets, if duly realized by sale or getting in of some portion of such assets, may in a proper case be treated as available for purposes of dividend." This principle was applied by Romer, J., in *Cross's Case*, and a realized profit upon certain capital assets, there being also a total appreciation of capital assets by at least that sum, was treated as available for dividend.

The second of the above cases—*Stapley* v. *Read Brothers, Ltd.*—dealt with a question of book-keeping. A company had applied its profits in writing off a corresponding amount of the value of the goodwill. It might, of course, have retained them as reserve, in which case they would clearly have remained available for profits, but the question was whether by applying them in writing off goodwill, the company had finally capitalized them. Russell, J., held that this step had not been taken. The writing

off of goodwill was a mere matter of book-keeping, and the amount could at any time be written back to profit. We are not sure that this does not sanction a certain laxity in the keeping of accounts, but the result is, perhaps, justified on the ground that it is a matter of internal management, and that real values are not affected.

Conversion of Personalty into Realty.

(*Re Twopeny's Settlement*, 1924, 1 Ch. 522, C.A.)

We believe that the decision of Parker, J., in *Re Walker: Macintosh* v. *Walker*, 1908, 2 Ch. 705, has been generally accepted as sound, but an attempt to question it was made, though without success, in *Re Twopeny's Settlement, supra*. The question is whether a testator or settlor can effect a motional conversion of real into personal property, or *vice versâ*, by a mere declaration that it shall devolve as such, or whether this can only be done by means of a trust for conversion. In *Re Walker*, Parker, J., held that a trust was essential. "A mere declaration that personalty shall devolve or pass to persons successively as realty is in itself inoperative, for the whole doctrine of conversion turns on the maxim that Equity considers to have been done what ought to have been done pursuant to the trust; and a mere declaration such as I have mentioned creates no obligation as to dealing with the property in one way or another." This principle was followed and applied by Romer, J., in *Re Twopeny's Settlement*, and his decision was affirmed by the Court of Appeal. But it is a branch of the law which will, it seems, become extinct when the Law of Property Act, 1922, is in operation.

Reviews.

The English and Empire Digest.

THE ENGLISH AND EMPIRE DIGEST, with Complete and Exhaustive Annotations, being a Complete Digest of every English Case reported from early times to the present day, with Additional Cases from the Courts of Scotland, Ireland, the Empire of India and the Dominions beyond the Seas, and including Complete and Exhaustive Annotations giving all the subsequent cases in which Judicial Opinions have been given concerning the English Cases digested. Vols. XIV and V: Criminal Law and Procedure. Butterworth & Co.

These two volumes divide between them the title "Criminal Law and Procedure," which has been contributed by Mr. Vernon Gattie, Mr. G. B. McClure, and Mr. W. Bentley Purchase, Barristers-at-Law. The task must have been one of the heaviest in the course of the preparation of this great work, and its success depends primarily on the skill with which the subject has been arranged. Of the thirty-seven parts into which it has been divided, Parts I to XV make up Vol. XV, and the remainder are assigned to Vol. XVI. The paging of the two volumes is consecutive, and a Table of Cases for both volumes is prefixed to the second. From eleven to twelve thousand have been collected, arranged and digested. On occasion any one of these may be brought out for the instruction of the court or the discomfiture of an opponent—a wonderful tribute to the all-embracing scope of judge-made law.

To explain in detail the arrangement of the Digest would be of little profit. The practitioner will readily find this out for himself. Part I deals with the Principles of Criminal Liability, and here are collected the cases on *Mens Rea*, and of many other matters which go to shew whether liability can be imputed to an accused person. Of special interest, in view of current discussion, is the section dealing with insanity. Under "Partial Insanity" (p. 56) we find the cases laying down the law before *McNaghten's Case*; then the answers of the judges in that case with the subsequent cases in which the principles there enunciated have been applied, such as *R.* v. *Smith*, 1910, 5 Cr. App. Rep. 123, and *R.* v. *Codere*, 1916, 12 *ibid.* 21, and recently the dictum in *True's Case*, 1922, 16 *ibid.*, that the proper direction to the jury is in accordance with the rules in *McNaghten's Case*. It follows, as appears from the next set of cases, under the heading "Uncontrollable Impulse," that such impulse is not, in itself, a defence in law: *R.* v. *Quarmby*, 1921, 15 *ibid.* 163; and *Holt's Case*, 1920, 15 *ibid.* 10, is cited as deciding that "uncontrollable impulse" is not a defence, unless it amounts to absolute insanity, and the court will not regard medical evidence which is merely a speculation upon such a theory, and does not vouch for insanity in the sense defined by the judges in *McNaghten's Case*. There the law—and the dispute between the doctors and the lawyers—must be left until there is another and more successful attempt to pass some measure such as Lord Darling's prematurely extinguished Bill.

Ex uno disce omnes, and the instance we have given, is a sufficient example of the practical importance of these two volumes, and of the interest of the subject-matter. Incidentally, it shows the care with which the earlier work of arrangement and digesting has been revised so as to bring the volumes up to date, for it is a fair guess that some of the cases just cited have been decided since the subject was first arranged and the work of digesting commenced. Other points of interest the reader will find in plenty, such as the decision in *R.* v. *Ring*, 1892, 17 Cox C.C. 491 (overruling *R.* v. *Collins*, 1864, 9 Cox 497), that the exploring of another's empty pocket may constitute an "attempt" at larceny. The law relating to particular offences, including Offences against the Person and Offences against Property, and Forgery, is digested in Vol. XV, and to a considerable extent the statute law has been consolidated in recent statutes, such as the Larceny Act, 1916, and the Forgery Act, 1913, and where relevant references to these statutes are inserted. At p. 865 is an interesting series of cases on "Larceny by a trick," including *Oppenheimer* v. *Frazer*, 1907, 2 K.B. 50, though, as laid down by Moulton, L.J., in that case, this, where the facts establish it, is in the eye of the law pure larceny.

As with other volumes, we have pleasure in paying a tribute to the efficiency of organization and of the work of the secretarial and printing staff, which make the production of the work possible and contribute so much to the convenience of using it.

International Law.

LEADING CASES ON INTERNATIONAL LAW, with Notes containing the Views of the Text-Writers on the Topics referred to, Supplementary Cases, Treaties, and Statutes. Volume II: War and Neutrality. By PITT COBBETT, M.A., D.C.L. (Oxon), formerly Professor of Law in the University of Sydney, New South Wales. Fourth Edition, by HUGH H. L. BELLOT, M.A., D.C.L., Barrister-at-Law. Hon. Sec. of the International Law Association, and of the Grotius Society. Sweet and Maxwell, Ltd. 25s. net.

This book might, perhaps, have the sub-title "Footnotes to History." The cases which it collects, beginning practically with the Napoleonic Wars, mark a succession of wars of the nineteenth century. Prior to the end of the eighteenth century International Law was mainly a matter for jurists. We had occasion recently, *ante*, p. 660, in reviewing the fifth volume of Prof. Holdsworth's History of English Law, to notice his account of the early writers on the subject who prepared the way for Grotius' great work *De Jure Belli*. There were Admiralty cases, and these begin in the seventeenth century; Sir Julius Cæsar is the best known of the early Admiralty judges, and the records can be found in the Selden Society's Select Pleas of the Admiralty. There are a few decisions—*Wells* v. *Williams*, 1697, 1 Ld. Rayn. 282, for instance, on the right of suit by an alien enemy resident here under the King's protection—before the end of the eighteenth century, but the regular course of decision begins then, and successive wars leave their mark in all the courts. The decisions of Lord Stowell in the Admiralty as a Prize Court are well known, but there were also decisions in the Common Law Courts, such as *Furtado* v. *Rogers*, 1802, 3 Bos. and P. 191, on the effect of war on a contract of insurance, and *Wolff* v. *Oxholm*, 6 M. & S. 92, refusing confiscation of debts, decided in 1817, but arising out of events in 1807; and *Ex parte Bousmaker*, 1806, 13 Ves. 71, before Erskine, L.C. Then we pass to the American decision of *Griswold* v. *Waddington*, 1818, 16 Johns, 438, on the effect of war on a partnership between hostile citizens. This arose out of the Anglo-American War—the last war, it may be anticipated between these two countries. The Crimea War produced decisions of Dr. Lushington in Prize, and, on appeal, of the Judicial Committee, such as *The Ariel*, 1857, 11 Moo. P.C. 119, on the effect of transfer of a ship to a neutral flag; and also well-known cases in the Common Law Courts, such as *Esposito* v. *Bowden*, 1857, 7 E. & B. 703. This was followed by the American Civil War, when the question of contraband became acute, and the United States Courts applied the doctrine of "continuous voyage" notably in *The Springbok*, 1863, 5 Wall. 1. The Boer War was responsible for *Janson* v. *Driefontein Mines*, 1902, A.C. 484, on the effect of war in breaking off commercial intercourse, and *Marais's Case*, 1902, A.C. 109, on Martial Law. And the late war has produced a host of cases of which the *Daimler Company's Case*, 1916, 2 A.C. 307, on the enemy character of a company; *Porter* v. *Freudenberg*, 1915, 1 K.B. 857, on the status of enemy aliens in litigation; and *The Zamora*, 1916, 1 A.C. 77, on the authority in a Prize Court of Orders in Council, may be cited as examples. We do not know that we can better indicate the scope and interest of this second volume of "Pitt Cobbett," as edited by Dr. Hugh Bellot, than by this historical collection of some of the cases which are collected in it, and their effect explained. The three Excursus on the Conduct of War—by land, by sea, and in the air—written with special reference to recent conventions, form a very interesting and valuable part of the book.

The proposal of some eminent jurists to exclude the military use of aircraft, Dr. Bellot describes as obviously futile. "Militarists will never abandon such a potent weapon of offence." But of course this does not justify their use except by way of self-defence, and even militarists—whoever they may be—may in course of time be brought under control. At any rate it stands to the credit of Great Britain that she declared against bombardment from the air at the Second Hague Conference, and that record stands.

The German Constitution.

THE CONSTITUTION OF THE GERMAN REPUBLIC. By HEINRICH OPPENHEIMER, D.Lit., LL.D., M.D., Barrister-at-Law. Stevens and Sons, Ltd. 10s. 6d. net.

The Constitution of the German Federation came into being on 11th August, 1919. We need not give any account of the events which led up to it. The abolition of the Emperor's rule was one of the objects of the late war, and when that was attained it might have been supposed that the quarrel with Germany would be over. But things have not worked out quite according to what we may call the Wilsonian plan. Nor need we attempt to estimate the permanency of the new Constitution. If it restores prosperity to Germany and ensures her harmonious position among European nations, all men will wish it well. Of the actual features of the Constitution and of its working, Dr. Oppenheimer's book furnishes a very complete and interesting account, and a translation of the text of the Constitution is given in an Appendix.

Naturally, the part which appeals most to us is that on Administration of Justice. It is s. VII, Arts. 102 to 108 of the Constitution, and it forms the subject of Chap. X of the book. The section opens with the declaration (Art. 102): "Judges are independent and subject to the law only." Further, under Art. 104 they are appointed for life, and cannot be removed, save in virtue of a judicial decision and on the grounds and in the forms prescribed by law. This seems to be in effect the same as judicial tenure here. But a less admirable feature of the judicial system is the establishment of Federal Administrative Courts. These are for the settlement of questions arising between the private individual and civil servants. According to Art. 107 they are "for the protection of the individual against orders and decrees of the administrative authorities." This, Dr. Oppenheimer says, means "a huge advance upon the order of things previously prevailing, which left the subject, body and soul, to the tender mercies of the bureaucracy," but the "so-called judges are civil servants or, at the best, a mixed body of officials and lawyers," and according to English opinion and practice it is for the ordinary courts to decide on the legality of acts of the executive. Under the United States Constitution the Supreme Court can decide on the validity of laws, but only, we believe, as an incident in a suit properly instituted. But under Art. 13 of the German Constitution the validity of a state law can be brought directly into question in the Supreme Court at Leipzig.

French and English Commercial Dictionary.

FRENCH-ENGLISH AND ENGLISH-FRENCH DICTIONARY OF TECHNICAL AND GENERAL TERMS, PHRASES AND ABBREVIATIONS used in Finance, Banking, Company Work, &c., &c. By J. D. KETTRIDGE, F.S.A.A., A.C.I.S., Incorporated Accountant and Auditor and Chartered Secretary (of the firm of Orman Kettridge & Co.). George Routledge & Sons, Ltd. New York: E. P. Dutton & Co. 10s. 6d. net.

This book will be of great assistance to lawyers, accountants and commercial men who have business relations with France. It contains some twenty-five thousand words, terms and phrases, arranged in alphabetical order. Thus, it gives the French equivalent for "per procuration"—properly *per procurationem*—and its abbreviations per pro. or p.p.; of crossed cheque; of, deed or conveyance; of "fully paid;" and so on. "Currency note" has no French equivalent, and remains in its English form, and it is the same, curiously enough, with "fair trade." The book can be very usefully added to the office library.

Books of the Week.

Scottish Conveyancing.—The Conveyancing (Scotland) Amendment Bill with Memorandum regarding The Simplification of Conveyancing, by DAVID MURRAY, M.A., LL.D. formerly Dean of the Faculty of Procurators in Glasgow. Glasgow: MacLehose, Jackson & Co.

The Law Quarterly Review.—Edited by A. E. RANDALL, Barrister-at-Law. Stevens & Sons, Ltd. 6s.

CASES OF THE WEEK.

House of Lords.

ANGHELATOS *v.* NORTHERN ASSURANCE CO.: LONDON JOINT CITY AND MIDLAND BANK LIMITED *v.* SAME. 15th July.

INSURANCE—MARINE—TOTAL LOSS—SHIP SCUTTLED—EVIDENCE—ONUS OF PROOF—PERILS OF THE SEA.

Whether or not it is the duty of underwriters to discharge the onus of showing that a ship has been wilfully cast away, the respondents had in this case discharged the onus and had proved that the ship had been scuttled with the connivance of the owner. Neither the owner nor the mortgagees could therefore recover on the policy.

These were two appeals from a decision of the Court of Appeal (39 T.L.R. 235), reversing a decision of Bailhache, J. The action was brought by the appellant Anghelatos as owner, and by the appellant bank as mortgagees of the Greek ship "Olympia" for a total loss under a policy of marine insurance issued by the respondents. It appeared that in June, 1921, the "Olympia" while on a voyage to Palestine ran ashore on the rocks near the Azores and became a total loss, and the question in the action was whether the ship was deliberately cast away with the connivance of the owner or whether the loss was due to a peril of the sea. It was also contended by the respondents that the appellants were disentitled to recover on the policy by reason of certain breaches of the warranty against over-insurance. Bailhache, J., came to the conclusion that the defence of casting away was not made out, and that there was an unexplained accident of the sea for which the underwriters were liable unless they were excused for some other reason, but he held that there had been a breach of the warrant of which the appellant bank had no notice. He therefore directed judgment to be entered for the bank to the extent of their interest, and for the respondents as against the owner. The respondents appealed, and there was a cross-appeal by the owner. The Court of Appeal held that the respondents had discharged the onus of proving that the vessel was scuttled with the connivance of the owner, and therefore neither the owner nor the bank could recover on the policy. The appellants' case at the trial was that the loss was due to mist and to a wrong observation by the master. The respondents' case was that the master's story was untrue, and that there was a plot to cast away the ship. It was also proved that at the time of her loss the ship was insured at ten times her value, and that the owner was in desperate financial straits.

Lord BIRKENHEAD, in delivering judgment, said that a number of cases had come before the courts in which a shipowner had deliberately destroyed his ship in order that he might receive the price of the ship from the insurers. The court had therefore to consider various questions of evidence, one of which was whether when a plaintiff sued on a marine policy for a total loss he thereby shifted on to the insurers the onus of showing that the sinking of the ship was not honest. Some judges had thought that if it was shown that a ship had sunk, the onus was on the underwriters to show that the ship had been wilfully cast away. Others had thought that it was for the plaintiff to show not only that the ship had perished, but that it had perished by a risk insured against. That was a matter which required very careful consideration at the hands of their lordships when the question arose for decision, but this was not such a case. Following the usual practice of the House in such matters he thought that it was not for their lordships to lay down any abstract rule when the decision of the case did not necessitate the application of the rule. In his opinion, whether or not it was the duty of underwriters to discharge the onus of showing that the ship had been wilfully cast away, the respondents in this case had discharged that onus. The learned judge below had shown some indulgence to the plaintiff in the method which he had applied to the examination of a remarkable series of coincidences. It might be difficult to define precisely what it was that the defendant had to prove to establish that the ship had been scuttled; but in considering this question it must be borne in mind that every source of evidence was open to the plaintiff and might be closed by the plaintiff, and it might not be possible to point to any single circumstance and say that that circumstance made it plain that the ship was scuttled, and he thought it would be unreasonable to pin the defendants to any one definite source of proof. The evidence must be looked at as a whole. In this case there was a series of circumstances any one of which would not justify the court in placing upon the plaintiff the stigma of having committed the serious criminal offence of scuttling the ship, and yet the cumulative effect of the whole might be such as not to leave any reasonable doubt in the mind of the court. In this connection he held himself at liberty to examine the character and antecedents of the plaintiff owner, and to place reliance upon that

evidence. At the same time he did not think it fair to draw inferences against the master merely because the owner was a rogue. They had the facts that the ship was bought for £170,000, that the total amount of insurances upon the ship and the freight amounted to £223,000, that the ship at the time of the loss was worth only £17,000, and that at that time the financial position of the owner was desperate. He was therefore an owner who had every conceivable motive to cast away his ship, and having regard to the fate of other ships which he had owned, it was conceded that he was a person who would not hesitate to throw away his ship if opportunity occurred. His lordship then examined in detail the evidence with regard to the conduct of the owner and the master, and taking the evidence as a whole he was satisfied that this vessel was deliberately cast on the rocks by the master by the instructions and with the connivance of the owner. There had been a great deal of wilful destruction of ships recently, and in these circumstances he proposed to consult their lordships whether this was not a case in which the papers should be sent to the Public Prosecutor.

The other noble and learned lords briefly expressed their concurrence.—COUNSEL: *Sir Douglas Hogg*, K.C., *Bateson*, K.C., and *S. L. Porter*; *R. A. Wright*, K.C., and *McNair*. SOLICITORS: *Downing, Middleton & Lewis*; *W. A. Crump & Son*.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

Court of Appeal.

COSTELLO *v.* BROWN. No. 1. 14th and 15th July.

WORKMEN'S COMPENSATION—ACCIDENT—TOTAL INCAPACITY—AWARD OF £1 WEEKLY—WAR ADDITIONS—APPLICATION TO REDEEM BY PAYMENT OF LUMP SUM—LEGISLATION SUBSEQUENT TO APPLICATION MAKING WAR ADDITIONS PART OF WEEKLY SUM—RIGHT TO REDEEM ORIGINAL SUM ONLY—WAR ADDITIONS TO CONTINUE AS WEEKLY PAYMENT—WORKMEN'S COMPENSATION ACT, 1906, 6 Edw. 7, c. 58, First Sched., par. 17—WORKMEN'S COMPENSATION ACT, 1923, 13 & 14 Geo. 5, c. 42, s. 1—INTERPRETATION ACT, 1889, 52 & 53 Vict., c. 63, s. 38.

In April, 1914, a workman received an injury, resulting in total incapacity and an award of compensation at the rate of £1 per week. The Workmen's Compensation (War Additions) Acts of 1917 and 1919 raised this amount to £1 15s. On 23rd December, 1923, the employer filed an application in the county court, to redeem the payment, under para. 17 of the First Sched. to the Workmen's Compensation Act, 1906, which provides that the employer may redeem the payment by payment of a sum sufficient to purchase for the workman an annuity equal to three-quarters of the weekly payment. On 1st January, 1924, the Workmen's Compensation Act, 1923, came into force, and it enacted, by s. 1, that the War Additions Acts were repealed, but that any addition should continue in force in the case of awards for total incapacity, and that in such cases "the addition shall, for all purposes, be treated as if it were part of the weekly payment." On 18th February, 1924, the employer's application came on for hearing, and an order was made for the redemption of the award of £1 per week. The workman appealed, contending that the Act of 1923, having come into operation before the hearing, the additions were "for all purposes" part of the payment, and the employer could only redeem the whole sum of £1 15s. per week. The employer contended that he could redeem the £1, and therewith terminate his liability, as the 15s. was an addition, and there could not be an addition which had ceased to exist in respect of a payment which had also ceased to exist.

Held, that by s. 38 (2) (b) and (c) of the Interpretation Act, 1889, the coming into force of the Act of 1923 on 1st January, 1924, did not affect rights previously existing, and as the employer had previously filed his application to redeem the award of £1 per week, that was the sum which he was entitled to redeem.

Held, further, that the Interpretation Act, 1889, operated in favour of the workman as well as of the employer, and therefore the right of the workman to receive the 15s. a week still continued.

Appeal from a decision of the judge at Hull County Court. The facts of this case appear sufficiently in the headnote. The court dismissed the appeal of the workman.

POLLOCK, M.R., stated the facts, and said that the right to redeem the weekly payment under para. 17 of the First Sched. to the Act of 1906 was an absolute right vested in the employer. In pursuance of that right, he had filed his application in December, 1923, and if there had been no vacation, and the court had not been busy, the application might have been granted at once. It did not, however, come on until February, 1924, and meanwhile the Act of 1923 had come into operation. But the question was as to the right of the employer when he filed his application. Must he, or could he then have redeemed the whole payment? It seemed clear that he could only redeem the £1 a week, for the Workmen's Compensation (War Addition) Act, 1917, clearly expressed the addition to be a separate payment, and in s. 1 (2) provided that, for certain purposes only, it should be "deemed to be part of the weekly payment under the Workmen's Compensation Act, 1906." At the end of that sub-section it was stated that the additional payment "shall, notwithstanding that the liability to make the said weekly payment is redeemed subsequently to the commencement of this Act, continue to be payable in the same manner as if that liability had not been redeemed." It seemed clear from that, that the employer's right to redeem remained only in respect of the primary weekly payment, and the additional weekly payment still continued. For the workman it was contended that at the making of the order for redemption the Act of 1923 was in force, and that, by s. 1, the additional payments, in the case of awards for total incapacity, were to be treated "for all purposes" as if part of the weekly payment; that there was in fact, one payment of 35s., which must be redeemed *in toto* or not at all. He (the Master of the Rolls) did not agree. By the Interpretation Act, 1889, s. 38 (2), the repeal of any Act was not to (*b*) "affect the previous operation of any enactment so repealed, or anything duly done or suffered under any enactment so repealed: or (*c*) affect any right, privilege, obligation or liability acquired, accrued, or incurred under any enactment so repealed . . . ." It seemed that, having regard to the terms of that statute, the right had not been modified by the coming into force of the Act of 1923, and the employer was entitled to redeem the payment of £1 and no more. As regards the contention that the right to receive the 15s. weekly was terminated, the Legislature had treated these war additions as additional, independent payments. The Act of 1917, as stated, only deemed it to be part of the primary weekly payment for certain purposes. The Interpretation Act in the sections referred to provided that the repeal of an Act was not to affect any rights and privileges accrued. The workman had, in December, 1923, the right to receive the 15s. a week, and, by the Interpretation Act, the right to that still remained.

Lords Justices WARRINGTON and SARGANT delivered judgments to like effect.—COUNSEL: *Wilfrid Price*, for Appellant; *Shakespeare*, for Respondent. SOLICITORS: *Pritchard & Sons*, for *A. M. Jackson & Co.*, Hull; *Walmsley & Slansbury*, for W. E. Barton, Hull.

[Reported by G. T. WHITFIELD-HAYES, Barrister-at-Law.]

High Court—King's Bench Division.

ATHERTON *v.* BRITISH INSULATED AND HELSBY CABLES, LIMITED. Rowlatt, J. 25th June.

REVENUE—INCOME TAX—DEDUCTIONS—COMPANY PENSION SCHEME—CONTRIBUTION BY COMPANY—LUMP SUM CALCULATED ON ACTUARIAL BASIS—INCOME TAX ACT, 1918, 8 & 9 Geo. 5, c. 40, Sched. D.

A pension scheme was instituted to provide pensions for employees of a company. The company contributed a sum, based on an actuarial calculation, which would have the effect of causing that sum to disappear after the death of certain then existing employees for the provision of whose pensions it was specially intended.

Held, that the sum so contributed was allowable as a deduction in computing the profits of the company for the purposes of income tax.

Hancock *v.* General Reservionary and Investment Co., 1919, 1 K.B. 25, *applied*.

Appeal by the Crown from a decision of the Commissioners for the special purposes of the Income Tax Acts. In 1916, a company which manufactured insulated cables constituted a pension fund to which those employees who elected to join the fund contr buted a percentage of their salaries. The company contributed an amount equal to one-half of the amount contributed by the members. They further undertook to pay into the fund a sum of £31,784 in order that the necessary amount might be provided to enable the past years of service of the then existing staff to rank for pension. The question arose whether the sum was deductible in computing the profits of the company for the purposes of income tax. It was contended on behalf of the Crown, that the money was not money laid out wholly and exclusively for the purposes of trade under r. 3 (*a*) of the rules applicable to cases I and II of Sched. D, and that it was capital withdrawn from trade under r. 3 (*f*), and that it was for those reasons not deductible from profits. The Commissioners held that the said sum of £31,784 was, having regard to the decision in *Hancock* v. *General Reversionary and Investment Co.*, *supra*, admissible as a deduction. The Crown appealed. By r. 3 of the rules applicable to cases I and II of Sched. D, it is provided: "In computing the amount of the profits or gains to be charged, no sum shall be deducted in respect of (*a*) any

disbursements or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade . . . (*f*) any capital withdrawn from, or any sum employed or intended to be employed as capital in such trade . . ."

ROWLATT, J., delivering judgment, said that the sum of £31,784 was an actuarial sum, and that, taking the principal and interest together, it would cover the claims in question and redeem them in advance. When the old employees had drawn their pensions and had died, that sum, according to the actuarial calculations, would have disappeared. The point was whether the lump sum, which had been paid to prevent the necessary payments from being made later, could be deducted. It was clear that the expenditure, which was in its nature a revenue expenditure, did not cease to be deductible because it was not made annually. The question was whether the payment of the lump sum was to be regarded in the same light as payments made annually. There seemed to be no distinction of principle between the present case and *Hancock's Case*, *supra*, and that case appeared to govern the present case. The appeal must be dismissed.—COUNSEL: *Sir Patrick Hastings*, Att.-Gen., and *Reginald Hills*; *Latter*, K.C., and *Hildesley*. SOLICITORS: *Solicitor of Inland Revenue*; *Rawle, Johnstone & Co.*, for *Hill, Dickinson & Co.*, Liverpool.

[Reported by J. L. DENISON, Barrister-at-Law.]

CASES OF LAST SITTINGS.

High Court—King's Bench Division.

ABRAHART *v.* WEBSTER. Div. Court. 4th June.

EMERGENCY LEGISLATION—LANDLORD AND TENANT—RECONSTRUCTION OF DWELLING-HOUSE—CONVERSION INTO FLATS—BASEMENT LET BEFORE CONVERSION—BASEMENT UNALTERED—WHETHER TENANT OF BASEMENT ENTITLED TO APPORTIONMENT OF RENT—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920, 10 & 11 Geo. 5, c. 17, s. 12 (9).

By s. 12 (9) *of the Increase of Rent and Mortgage Interest (Restrictions) Act*, 1920, *it is provided*: "*This Act shall not apply to a dwelling-house erected after or in course of erection on the second day of April nineteen hundred and nineteen, or to any dwelling-house which has been since that date or was at that date being bonâ fide reconstructed by way of conversion into two or more separate and self-contained flats or tenements . . .*"

The term "dwelling-house" in s. 12 (9) *of the Act refers to the whole building, and where the upper part of a house is converted into flats, while the basement remains unaltered, the sub-section does not, while it excludes the converted portion of the house from the scope of the Act, operate so as to retain the basement within the purview of the statute.*

Appeal from the Brighton County Court. On the 3rd August, 1914, a house at Hove, consisting of a basement, ground floor and two upper floors, was occupied by a single tenant at an annual rent of £60. In 1921 the basement was in the occupation of the defendant as a separate tenement. In 1923 the owner converted the upper portion of the house into flats, but the basement, which was still in the occupation of the defendant, at a rent of 11s. 9d. per week, remained unaltered. Subsequently the defendant applied to the county court for an apportionment of the rent, and the registrar assessed the basement at one-fifth of the standard rent of £60. The county court judge upheld the decision of the registrar, holding that the unaltered basement was a separate "dwelling-house" forming no part of the converted premises and that the defendant was entitled to have the standard rent of the basement ascertained by apportionment. The landlord appealed.

ROWLATT, J., delivering judgment, said that, in his view, although no benefit had been shown to have been derived by the basement from the alterations, the whole house had been reconstructed. The word "dwelling-house," in his opinion, meant the whole of the building subjected to conversion. Section 12 (9) of the Act, therefore, applied so as to take the whole of the house, including the basement, out of the operation of the statute.

BRANSON, J., delivered judgment to the same effect, and the appeal was allowed.—COUNSEL: *B. Long*; *R. W. Jennings*. SOLICITORS: *Cox & Cardale*, for *Howard Gates & Ridge*, Hove; *Graham-Hooper & Betteridge*, Brighton.

[Reported by J. L. DENISON, Barrister-at-Law.]

Portraits of the following Solicitors have appeared in the SOLICITORS' JOURNAL: Sir A. Copson Peake, Mr. R. W. Dibdin, Mr. E. W. Williamson, and Sir Chas. H. Morton. Copies of the JOURNAL containing such portraits may still be obtained, price 1s.

WILLIAMS *v.* BALTIC INSURANCE ASSOCIATION OF LONDON, LIMITED. Roche, J. 26th and 27th May.

INSURANCE—MOTOR CAR—CAR DRIVEN BY PERSON OTHER THAN THE INSURED—ACCIDENT—INJURY TO PASSENGERS—ACTION FOR DAMAGES AGAINST INSURED AND DRIVER OF CAR—WHETHER AMOUNT RECOVERABLE UNDER POLICY—LIFE ASSURANCE ACT, 1774, 14 Geo. 3, c. 48, ss. 1, 2, 4.

In July, 1921, *a policy of insurance was taken out by the owner of a motor car in respect of his car. The insurance company thereby agreed to indemnify the owner of the car against damage to the car and against all sums for which the insured (or any licensed personal friend or relative of the insured while driving the car, with the insured's general knowledge and consent) should become legally liable in compensation for loss of life or accidental bodily injury caused to any person, other than a person in the insured's employment or a member of the insured's household. The policy contained an arbitration clause. While the car was being driven on 27th October*, 1921, *by a sister of the owner of the car, a collision occurred, resulting in an accident in consequence of which personal injuries were suffered by passengers in the car, who were not in the employment of the assured, and who were not members of his household. They commenced proceedings against the owner of the car, and his sister, and were awarded damages. The owner claimed to recover from the insurance company the amount of the damages and the costs of the proceedings, and his claim was upheld by arbitrators, who stated this special case.*

Held, that the company was liable to pay to the insured the amount claimed, the policy being an insurance of goods (i.e., *of the motor car*), *and, therefore, only incidentally covering third party risks, and not affected by the provisions of the Life Assurance Act*, 1774.

Special case stated by arbitrators. The facts are sufficiently stated in the head-note. By the Life Assurance Act, 1774, it is provided: s. 1. "No insurance shall be made by any person . . . on the life or lives of any person or persons, or on any other event or events whatsoever, wherein the person or persons for whose use, benefit, or on whose account such policy or policies shall be made shall have no interest." s. 2. "It shall not be lawful to make any policy or policies on the life or lives of any person or persons or other event or events, without inserting in such policy or policies the person or persons' name or names interested therein, or for whose use, benefit, or on whose account such policy is made or underwrote." s. 4. "Provided always, that nothing herein contained shall extend or be construed to extent to insurances *bonâ fide* made by any person or persons on ships goods, or merchandise; but every such insurance shall be as valid and effectual in law as if this Act had not been made."

ROCHE, J., delivering judgment, said that in his opinion the clause in the policy covered the very circumstances in the case. The driver of the car at the time of the accident was a personal friend and relative of the assured, driving with his general knowledge and consent. His lordship could not accept the contention that the policy was affected by the Life Assurance Act, 1774, on the grounds that the assured had no insurable interest, and that the driver could not recover because her name was not inserted in the policy. The policy was, in his view, a policy of insurance on goods (*i.e.*, the motor car), and only incidentally covered third party risks. It covered not only the assured himself, but also the other persons mentioned in the clause. The award of the arbitrators must, therefore, be upheld.—COUNSEL: *Schiller*, K.C., and *H. D. Samuels*; *Claughton Scott*, K.C., and *W. Shakespeare*. SOLICITORS: *W. C. Crocker*; *Harry Wilson*.

[Reported by J. L. DENISON, Barrister-at-Law.]

Court of Criminal Appeal.

REX *v.* NORMAN. 26th May.

CRIMINAL LAW—HABITUAL CRIMINAL—PROCEDURE—EVIDENCE—PREVIOUS CONVICTION AS HABITUAL CRIMINAL—RIGHT OF PRISONER ON SUBSEQUENT CHARGE—DUTY OF JURY—PREVENTION OF CRIME ACT, 1908, 8 Edw. VII, c. 59, s. 10.

A jury is not bound to find a prisoner to be an habitual criminal merely because on a previous occasion he has been found to be an habitual criminal and sentenced to preventive detention.

Rex *v.* Stanley, 64 SOL. J. 341; 1920, 2 K.B. 235, *overruled*.

Appeal against a conviction and sentence. The facts appear in the judgment of the majority of the court.

Lord HEWART, C.J., read the judgment of the majority of the court (Lord HEWART, C.J., HORRIDGE, LUSH, MCCARDIE, ROCHE, GREER, SWIFT and BRANSON, JJ.). The appellant pleaded guilty at the Central Criminal Court to counts in an indictment charging him with burglary, stealing and receiving, and uttering a forged

cheque. He was also found to be an habitual criminal. He was sentenced to three years' penal servitude and five years' preventive detention. The statutory notice given by the Director of Public Prosecutions was based primarily, but not exclusively, on the proposition set out in s. 10 (2) (*b*) of the Prevention of Crime Act, 1908, and it stated that on 6th September, 1917, the appellant was found by a jury to be an habitual criminal and was then sentenced to six years' preventive detention. The statutory notice added that evidence might also be given of a long series of previous convictions against the appellant. At the trial, when proof was given that the appellant had already been found to be, and had been sentenced as, an habitual criminal, he was told by the court that evidence on his part was "of no avail," and the jury was directed that it was compelled to find that he then was an habitual criminal. The appellant appealed against that finding. It is said on the part of the prosecution that in a case where the notice served on the prisoner contains the statement set out in s. 10 (2) (*b*) of the statute, the only question is one of identity—namely, is this prisoner the same person as the one who was previously found to be an habitual criminal and sentenced to preventive detention? If that question is answered affirmatively, it is contended that the jury has no choice in the matter, that its verdict becomes purely automatic, that no other question arises and no other evidence is admissible, and that the jury is bound to find as a fact that the prisoner still is, at the time when the verdict is given, an habitual criminal. This result, it is said, follows from the judgments given in three decided cases. Those cases are *R.* v. *Collins*, which is not reported; *R.* v. *Davis*, 62 Sol. J. 55; 1917, 2 K.B., 855; and *R.* v. *Stanley*, 64 Sol. J. 341; 1920, 2 K.B., 235. [His lordship examined them, holding that *R.* v. *Stanley* should not be followed, and continued]: The question is, what does the statute mean? Now, it is to be observed that by s. 10 (1) the provisions concerning detention of habitual criminals apply only in cases where, after conviction for a crime, "the offender admits that he is, or is found by the jury to be, an habitual criminal." That is to say, unless the offender makes the admission, it is in each case a question, not of law for the judge, but of fact for the jury, whether the offender is an habitual criminal. Then s-s. (2) of s. 10 enacts that "a person shall not be found to be an habitual criminal unless the jury finds on evidence" one of two things (*a*) or (*b*). Here, again, the statute seems deliberately to make it plain that the question is one of fact for the jury, to be determined by the jury on evidence. The question for the jury seems always to be the general question, Is this offender an habitual criminal? and the jury must not answer that question in a sense adverse to the offender unless, at least, it is satisfied of the truth of one or other of the two propositions (*a*) or (*b*). In other words, the affirmative answer of the jury to the general question must at the least be founded upon, and involve, an affirmative answer to the particular question. Some difficulty appears to have arisen in the present controversy because it seems in some quarters to have been thought that the two propositions (*a*) and (*b*) set out in s-s. (2) contain in themselves a complete and exhaustive, though alternative, account of the grounds on which the charge that the offender is an habitual criminal may be founded. But in our opinion this view cannot be sustained. The closing words of s-s. (4) make it reasonably plain that no such limitation is intended. On the contrary, the words are quite general—namely, "the notice to the offender shall specify the previous convictions and the other grounds (in the plural) upon which it is intended to found the charge." If these words are read side by side with the propositions (*a*) and (*b*) contained in s-s. (2), and the issue formulated in s-s. (4), it is apparent that the notice may contain any grounds on which the jury may reasonably be asked to come to the general conclusion that the offender is an habitual criminal, but, to be effective, those grounds must at least contain sufficient material to enable the jury to be satisfied in particular of the truth of proposition (*a*) or of proposition (*b*). And, indeed, in the present case, although the statutory notice contained proposition (*b*), it went on to mention a series of previous convictions. More than that, by s-s. (5) of the same section it is expressly provided that "without prejudice to any right of the accused to tender evidence as to his character and repute, evidence of character and repute may, if the court thinks fit, be admitted as evidence on the question whether the accused is or is not leading persistently a dishonest or criminal life." In these words there is nothing to say, or to suggest that, where the statutory notice is directed primarily or exclusively to proposition (*b*) in s-s. (2), the accused is debarred from giving or tendering evidence on his own behalf. The words of s-s. (5) seem clearly to point to the opposite conclusion. The general question, Is this offender an habitual criminal? is, and must always be, in the absence of admission, a question of fact for the jury to determine. But if it really is a question of fact for the jury, it seems a little remarkable that it should be the duty of the judge—as the argument for the prosecution here contends—to leave the question of fact to the jury by the unusual method of directing the jury to find a verdict against the accused.

Our attention was directed to the decision of the court in *R.* v. *Hunter*, 1921, 1 K.B., 555. The decision, it was said, involved the conclusion that when once a jury has found a prisoner to be an habitual criminal, and he has been sentenced to preventive detention, he thereby acquires, and can never get rid of, the permanent "status" of habitual criminal. But it is apparent that that case was concerned with a very different question—namely, whether the allegation that a man is an habitual criminal is a charge of an offence or crime, or whether it merely asserts "a status or condition in him." The words "status" or "condition" were used in that context merely to indicate something antithetical to offence or crime, and no question of permanent status was so much as suggested. The "status" or "condition" referred to was the "status" or "condition" at the particular time only. Reference was also made in argument to a Scottish case, the case of *Macdonald*, 54 Sc. L.R., 96, where it appears to have been thought that the words in s. 10 (2) of the Prevention of Crime Act, 1908, contain a definition of the term habitual criminal. That decision also is entitled to be treated with great respect. But it would seem to be based entirely on a view that the statute must contain some definition of the term habitual criminal, and that, in the absence of anything better, the words "shall not . . . unless" ought to be treated as if they were "shall . . . if," and amounted to a definition. We are of opinion, however, for the reasons already stated, that the Legislature, as in such a matter is not, perhaps, unnatural, has deliberately refrained from a definition, and has left to the jury the question whether the prisoner is an habitual criminal, taking care, however, to provide that he must not be so found unless, at the least, one or other of two conditions precedent shall have been fulfilled.

In our opinion, therefore, a direction was in the present case given to the jury which was too unfavourable to the appellant, and he was prevented from giving evidence on his own behalf. But it might, nevertheless, be contended that no substantial miscarriage of justice has occurred, and that the proviso to s. 4 (1) of the Criminal Appeal Act, 1907, ought to be applied. That contention would involve the argument that, in view of the undoubted facts relating to the criminal career of the appellant, the jury, on a proper direction, could not rightly have done otherwise than have come to the same conclusion as that to which it came in the actual course the trial took. There is much to be said for that contention. On the whole, however, in view of all the circumstances, we do not think it necessary or desirable to apply the proviso to the facts of the present case. In the result, therefore, the appeal is allowed, and the sentence of preventive detention is quashed.

Avory, Rowlatt, Bailhache and Shearman, JJ., dissented. Appeal allowed.—Counsel: *Roland Oliver; Travers Humphreys* and *Horace Fenton*. Solicitors: *The Registrar of the Court of Criminal Appeal; The Director of Public Prosecutions.*

[Reported by T. W. Morgan, Barrister-at-Law.]

Cases in Brief.

The Law of Torts: Negligence.

The Residuary Liability of Landlords: Where a landlord lets out his premises in separate lots to different tenants, he usually retains in his own possession and control some insignificant part of the premises, generally something the user of which is of necessity common to all the tenants so that letting of it to one, or severally in portions to each, is not practically possible. This result may follow whatever the nature of the property may be, but it most frequently occurs in the case of tenements let out in flats. In such cases the residuary possession or interest kept by the landlord renders him liable in tort whenever an independent occupier of the portion of premises so retained would incur legal responsibility. This principle was established in the leading case of *Miller* v. *Hancock*, 1893, 2 Q.B. 177; but that case has often been misunderstood and has frequently been pushed to extreme lengths; it is only a decision of the Court of Appeal. In a recent case, without by any means overruling *Miller* v. *Hancock*, the House of Lords has considered it and limited in a very material respect the extent of the landlord's liability.

In the case we are noting a house was let in separate tenements and the landlord retained control of the staircase. There was an obvious defect in the staircase which on the face of it must have shown any reasonable person that it was dangerous unless used with care. A visitor to a tenant met with an accident owing to the defect in the staircase. The question arose whether the landlord was liable to him as an *invitee*, or as a *bare licensee*, *i.e.*, whether his liability is the higher one which an occupier owes to a person whom he invites to do business with him, or the lower one which he owes to a person whom he does not invite, but permits,

to use it. To the former class of persons the duty owed is that of either making the premises safe or warning them of the existence of the danger; to the latter class the only duty owed is that of protecting them against what the law calls "traps," *i.e.*, hidden dangers which the owner ought to know of, but the visitor cannot be expected to discover for himself. The House of Lords held that the duty of the landlord, in the case of common staircases where blocks of flats, etc., are let out, is not that of an occupier to an invitee, but merely that of an occupier or owner to a licensee, *i.e.*, he is only responsible if there is a trap.

An ingenious attempt was made in this case to set the responsibility of the landlord on a much wider foundation than was suggested even in *Miller* v. *Hancock*, *supra*. It was suggested that there is an implied contract between the landlord and the tenant or person invited by the latter to use the premises, that the landlord will repair the staircase and keep it safe; so that breach of this implied undertaking is actionable as such. This the House of Lords held to be an erroneous view: *Fairman* v. *Perpetual Investment Building Society*, 1923, A.C. 74.

INVITEES OF A SUB-LICENSEE: An interesting attempt was unsuccessfully made in another recent case to push further the liability of owners or occupiers of property to persons injured upon it. A freeholder used his grounds for the purpose of permitting concessionaires to hold shows upon them; he himself issued advertisements inviting people to visit the place and received fees in respect of visitors. One of these visitors was injured in a side-show, owing to the negligence of the concessionaire of that side-show and/or his servants, who were not employees of the freeholder. The visitor claimed damages against the freeholder on the ground (1) that he invited him to visit his grounds for a consideration, and (2) that he authorized the carrying on of the performance in the course of which the plaintiff was injured, so that (3) he was liable for injuries caused to the plaintiff by that performance. Such liability, however, can only be based on some one of three alternative grounds:—

(1) The freeholder is an invitor of the visitor, in which case he is liable for "traps," of the existence of which he fails to warn him;

or (2) The freeholder is "principal" of the person giving the performance and therefore liable for his torts in accordance with the maxim "*Respondeat Superior*";

or (3) The freeholder has permitted a "dangerous thing" to exist on his premises and must therefore indemnify against injury by it every person using the premises (except trespassers).

But here (1) there was no trap, and (2) there was no relationship of "Principal and Agent" between the freeholder and his concessionaire, and (3) the performance was not intrinsically a "dangerous thing." Therefore the freeholder's liability is restricted to that of an ordinary occupier who is not liable except for "gross negligence" or "traps"; a rule enunciated in *Cox* v. *Coulson*, 1916, 2 K.B. 177. The Court of Appeal considered and approved *Cox* v. *Coulson*, and held that, in the absence of a "trap," there was here no liability of the freeholder: *Sheehan* v. *Dreamland, Margate, Ltd.*, 40 T.L.R. 155.

NON-FEASANCE AMOUNTING TO MISFEASANCE: Although as a general rule a local authority, whether in England or in Scotland, is not liable in damages for "*non-feasance*" of a statutory duty, but merely for "*misfeasance*," yet acts of *non-feasance* may be so combined with acts actually performed by the authority as to constitute the whole a *misfeasance* for which it is liable. In a recent Scots case, where however the rule of law is the same as in England, the Court of Session had to consider an interesting set of facts. Here a child, playing on the pavement of a public street in a borough, was injured owing to her foot catching in an irregular triangular depression of the pavement, five inches broad and one in depth. The local authority had omitted to inspect and repair the pavement, the condition of which had been dangerous for a considerable time previous to the accident. It was held that the child had an action in negligence against the burgh authority; an adult would have been disentitled on the ground of "contributory negligence"; but this plea is not usually available against a child: *Buchanan* v. *Glasgow Corporation*, 1923, Court of Session Cases, 782.

RESPONSIBILITY TOWARDS SPORTIVE CHILDREN: The well-settled rule that an owner or occupier of property who leaves it in the vicinity of places lawfully used by children must answer for any damage which may result to themselves or others from mischievous interference with his property by them, has been further illustrated in two recent Scots cases. In the first of these, it was alleged, children had been, to the knowledge of an occupier of premises, in the habit of swinging on one of his gates; this was defective, and the children suffered injuries from the defect. It was held that *primâ facie* such an injury is actionable: *Darngavel Coal Co.* v. *McKinlay*, 1923, S.C. (H.L.) 34; 67 SOL. J. 276.

In the second case, it was alleged that an engine-house was ruinous and defective, so that its walls were full of crevices which amounted to "traps" for anyone who might climb the wall. It was also alleged that boys were in the habit of climbing this wall, to the knowledge of its owner, without interference on his part. A boy of ten, engaged in bird-nesting, was climbing this wall when he was injured by the dislodging of a stone on which he stepped; he died of the injuries, and his parent incurred expenses in connection with his illness and death which in a proper case would be recoverable from a tort-feasor causing the death. The engine-house was near a public road and was not protected by a fence. It was held that in these circumstances there existed a *primâ facie* liability of the occupier to the sportive child thus injured: *Boyd* v. *Glasgow Iron and Steel Co.*, 1923, Court of Session Cases, 758.

In Parliament.

House of Lords.

16th July. Public Health (Smoke Abatement) Bill. Read a Second time and committed to a Committee of the whole House.

17th July. Legitimacy Bill. Considered in Committee. Viscount Cave moved, in s. 1, after s-s. (1) to insert the following new sub-section:—

"(2) Nothing in this Act shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born."

Agreed to by 77 to 38. Other amendments made.

Seditious and Blasphemous Teaching to Children Bill. Considered in Committee.

Conveyancing (Scotland) Amendment Bill. Read a Second time and committed to a Committee of the whole House.

Church of Scotland (Property and Endowments) Bill. Read a Third time.

Parliament (Qualification of Peeresses) Bill. Second reading moved by Viscount Astor. Debate adjourned.

21st July. Motion as to present situation in India (Viscount Peel). Statement by the Secretary of State for India, Lord Olivier. Debate adjourned.

Law of Property Act (Postponement) Bill. The Lord Chancellor (Viscount Haldane), in moving the Second reading, said: This is a postponement Bill about which certain noble and learned Lords and myself have agreed. The reason for bringing this Bill forward is this. The Law of Property Act, the Act of the noble Earl, Lord Birkenhead, was referred to several ex-Lord Chancellors in co-operation. It is a very elaborate Act, as your Lordships know, and you may remember that it was pointed out that it would not be complete unless other Statutes relating to the law of real property were amended and brought into a modified form and the noble Earl's Act was brought into conformity with them. We succeeded in framing a Bill with the necessary wording. It is proposed that there should be a series of consolidating Acts and in these consolidating Acts your Lordships will have the law of real property. In order to do that it is necessary to postpone the operation of the noble Earl's Act. We all agreed that unless that was done there would be a confusion for which it would be difficult to find a remedy. We propose, therefore, to postpone the coming into operation of that particular Act until the 1st day of January 1926.

Bill read a Second time and committed to a Committee of the whole House.

Guardianship of Infants Bill and Companies Amendment (Co-partnership) Bill. Read a Third time and sent to the Commons.

22nd July. London Traffic Bill. Considered in Committee.

House of Commons.

Questions.

ENEMY DEBTS (MIXED ARBITRAL TRIBUNAL).

Sir H. BRITTAIN (Acton) asked the Financial Secretary to the Treasury whether, in view of the delay in the payment of dividends by the clearing office on agreed claims against the German Government, he will take all possible steps to expedite the payment of these dividends?

Mr. ALEXANDER: I have been asked to reply. Claims by British nationals against the German Government under Art. 297 (*h*) of the Treaty of Versailles in respect of the proceeds of liquidation of their property in Germany, are paid in full by the British Clearing Office on admission by the German Clearing Office, or on an award by the Anglo-German Mixed Arbitral Tribunal. As regards claims against the German Government for compensation under Article 297 (*e*), which in most cases are complementary to claims for proceeds of liquidation, all awards of £50 and under are paid in full, and a further dividend of 7s. 6d. in the £ was paid by the British Clearing Office last week on awards exceeding

£50, making, with previous dividends paid, a total distribution to date of 15s. in the £. A further dividend will be paid as and when sufficient funds are available.

LANDOWNERS (REPAYMENTS).

Mr. PERRY (Kettering) asked the Financial Secretary to the Treasury the amounts returned to landowners under s. 57 (3) of the Finance Act, 1920 ?

Mr. GRAHAM: The total repayments under s. 57 (3) of the Finance Act, 1920, are as follows:—

	£
Increment Value Duty ..	418,450
Increment (Annual)	26,043
Undeveloped Land Duty ..	154,286
Reversion Duty	239,984
	£838,763

(17th July.)

Bills Presented.

Landlord and Tenant Bill—"to amend the Law governing the relations between landlords and tenants": Mr. Comyns-Carr, on leave given. [Bill 212.]

Shops Acts (1912 to 1920) Amendment Bill—"to continue permanently certain provisions relating to the early closing of shops": Sir Kingsley Wood. [Bill 211.] (16th July.)

Expiring Laws Continuance Bill—"to continue certain Expiring Laws": Mr. William Graham. [Bill 216.] (18th July.)

Shops Bill—"to make further provision with respect to shops and other places where trade or business is carried on; and for purposes connected therewith": Mr. Hoffman. [Bill 219. (22nd July.)

Bills under Consideration.

16th–17th July. Housing (Financial Provisions) Bill. Considered in Committee and adjourned.

18th July. Unemployment Insurance (No. 2) Bill. As amended in the Standing Committee, further considered, and read the Third time.

21st July. Housing (Financial Provisions) Bill. Considered in Committee.

New Orders, &c.

Board of Trade.

THE GERMAN REPARATION (RECOVERY) No. 3 ORDER, 1924.

The Board of Trade in pursuance of the powers conferred upon them by Section 5 of the German Reparation (Recovery) Act, 1921, &c., hereby make the following Order:—

1. This Order may be cited as "The German Reparation (Recovery) No. 3 Order, 1924."

2. Any article of the following description shall be exempt from the provisions of the said Act, that is to say, any article in respect of which it is proved to the satisfaction of the Commissioners of Customs and Excise:—

(*a*) that such article is an empty container consigned from Germany to the United Kingdom, solely for the purpose of being filled and returned to Germany,

(*b*) that such article does not pass into the ownership of any person in the United Kingdom and that no financial or other consideration in respect thereof passes to the consignor

provided that security has been given to the satisfaction of the said Commissioners for the return of such article to Germany within a period to be determined by the said Commissioners in each case.

S. J. Chapman,
A Secretary, Board of Trade.

7th July.

PLEADINGS IN MATRIMONIAL CAUSES.

In view of the decision of the House of Lords in the case of *Russell* v. *Russell* and pending any direction of the Court with regard to the matter, no pleading which alleges that a child born in wedlock is not the issue of the marriage between its parents will be received in the Registry, except by special direction of a Registrar.

Affidavits containing such an allegation as before mentioned will be subject to rejection in any case in which it appears to the Registrar that they contravene the decision in *Russell* v. *Russell*.

Principal Probate Registry,
Somerset House,
London, W.C.2.

Societies.

The Visit of the American Bar Association.

THE WELCOME IN WESTMINSTER HALL.

The members of the American Bar Association, who are visiting this country, were formally welcomed in Westminster Hall on Monday by their English and Canadian brethren of the law. The ceremony was stately and impressive. At the south end of the hall a dais had been erected midway up the broad flight of steps which lead to St. Stephen's Hall, and to this a procession of the judges, headed by the Lord Chancellor, made its way from the north entrance. Lord Haldane occupied the central seat on the dais, and around him were a great assemblage of legal dignitaries, including Lord Parmoor, Lord Birkenhead, Lord Cave, Lord Buckmaster, Lord Shaw, Lord Dunedin, Lord Blanesburgh, Lord Trevethin, Lord Wrenbury, the Lord Chief Justice, the Master of the Rolls, Lord Justice Bankes, Lord Justice Warrington, Lord Justice Scrutton, Lord Justice Atkin, Lord Justice Sargant, Mr. Justice Eve, Mr. Justice Horridge, Mr. Justice Shearman, Mr. Justice Sankey, Mr. Justice P. O. Lawrence, Mr. Justice Greer, Mr. Justice Branson, Mr. Justice Russell, Mr. Justice Romer and Mr. Justice Tomlin. Behind the dais were massed on one side members of the Junior Bar wearing wig and gown, and on the other King's Counsel and Judges of the County Courts, in robes and full bottomed wigs. Upon the platform were the members of the reception committees, the heads of the Bar, including the Attorney-General and the Solicitor-General, with a number of ex-law officers, among them Sir John Simon, K.C., Sir Douglas Hogg, K.C., Sir Leslie Scott, K.C., Sir Thomas Inskip, K.C.; the President of The Law Society, also members of the American Bar Association and many American judges, together with the American Ambassador (Mr. Frank B. Kellogg) and the United States Secretary (Mr. Charles E. Hughes) who is also President of the American Bar Association, Mr. Justice Sutherland (Associate Judge of the Supreme Court of the United States), and Sir James Aikins, K.C. (Lieutenant-Governor of Manitoba). Others present were Mr. Butler Aspinall, K.C., Sir Lewis Coward, K.C., the Hon. Sir Malcolm Macnaghten, K.C., M.P., Mr. T. R. Hughes, K.C. (members of the English Reception Committee); Mr. Justice Duff, the Hon. H. W. Newlands, the Hon. N. A. Belcourt, the Hon. Sir T. Douglas Hazen, K.C. (Chief Justice of New Brunswick), the Hon. N. W. Rowell, K.C., the Hon. J. B. M. Baxter, K.C., the Hon. R. B. Bennett, K.C., the Hon. Chief Justice Martin, the Hon. Mr. Justice Mignault, the Hon. Mr. Justice Mellish, the Hon. R. W. Craig, K.C. (Attorney-General of Manitoba) Mr. Isaac Pitblado, K.C., Mr. J. A. M. Patrick, K.C., Mr. J. W. Cook, K.C. (Batonnier General of the Bar of the Province of Quebec), Mr. L. A. Cannon, K.C. (Batonnier of the Bar of the District of Quebec City), Mr. E. A. Armstrong, K.C. (Premier of Nova Scotia), Mr. Patenaude, and Mr. E. L. Newcombe, K.C. (Deputy Minister of Justice, Canada, members of the Canadian Reception Committee); Justice Edward T. Sanford (United States Supreme Court), the Hon. George W. Wickersham, the Hon. Thomas W. Gregory (ex-United States Attorneys-General), Chief Justice Arthur P. Rugg (Supreme Court of Massachusetts), Judge Peter W. Meldrum, Judge Alton B. Parker, the Hon. James M. Beck (Solicitor-General of the United States), the Hon. Moorfield Storey, Judge Augustus M. Hand, Judge Edwin S. Thomas, the Hon. J. Weston Allen, Judge Irving Lehman, Judge C. A. Woods, Judge J. Holdom, Judge A. A. Sanderson, Judge L. J. Genung, Judge Frederic A. Hill, Judge William C. Holt, the Hon. Clifford L. Hilton, Judge Walter J. Dawkins, the Hon. James Brown Scott, Judge Charles S. Cushing, and Judge Frederick E. Crane (representatives of the American Bar Association); the Lord Advocate, Viscount Ullswater, Sir Lewis Dibdin, Sir Ernest Wild, K.C. (Recorder for the City of London), Sir Adrian Knox, Sir Shadi Lal, and Maitre Appleton. State dress was the order of the day, and the hall was filled to its utmost capacity with the visitors, the great majority of whom had come from the other side of the Atlantic.

The ATTORNEY-GENERAL, in introducing the representatives of the Bar of the United States to the Lord Chancellor, said that the gathering would not have been what it was but for the Canadian Bar Association, who had agreed to unite with the English Bar as hosts to this great assemblage, which, he thought, was unique in the history of the world. They welcomed them from the bottom of their hearts as lawyers, believing that the law, which they all practised, was the only sure foundation on which civilisation could take its stand. As they looked back through the centuries they must, many of them, seem to see ancestors of theirs standing side by side doing something to make the history of this great country. The tie that bound their great countries together was a tie of blood, a tie which no enemies, jealous perhaps of their friendship, could ever unbind. Was it too much to hope that that great meeting might do more for posterity than they could even perhaps imagine to-day? They earnestly

desired that the guests should have a happy time, and that when they went back home they would feel that they carried with them the love of the country which they had honoured with their visit.

The PRESIDENT OF THE LAW SOCIETY (Mr. R. W. DIBDIN), as representing the solicitors of England, also introduced the guests. It was a great pleasure, he said, to his branch of the profession—he was quite sure to the whole profession—that the invitation which had been extended by his predecessor, in connection with the Attorney-General's predecessor, had been so cordially accepted as was evidenced by that very large attendance. The members of the profession were very glad and proud to see them, and their pleasure was greatly increased by the fact that so many ladies from America accompanied them. It seemed to him most appropriate that they should meet in that ancient and venerable hall, a hall which Americans might well consider as a part of their own history. How many events which applied to both nations had taken place there? He felt that the event which was then taking place would in future times be considered as not the least important, and not the least beneficial in the history of the two countries. It seemed to him that they were not only assembled in the name of their two countries, but in the name of peace. Whatever some might think, they knew that the legal profession was distinctly a peaceful profession, and that it always tended to make and preserve peace, and he believed that nationally and internationally, the effect of that meeting would be emphatically in that direction.

Sir JAMES AIKINS, K.C. (State Governor of Manitoba), on behalf of the Canadian Bar Association, also introduced the guests. He reminded the Lord Chancellor that one of the most effective meetings of the American Bar Association was held, for the first time outside the United States, in Montreal, and that this was, therefore, the second occasion when the Association met outside its own country. At the meeting at Montreal the Lord Chancellor was present, and, in closing his address, he said the occasion had seemed to him significant of something beyond even the splendid hospitality. He had, he said, interpreted it as the symbol of a desire that extended far beyond the limits of that assemblage, the desire that they should steadily direct their thoughts to how they could draw into closest harmony nations of a race in which all of them had a common pride. Lord Haldane had concluded, "If that be now a far spread inclination, then indeed may the people of the three great countries say to Jerusalem: "Thou shalt be built," and to the temple, "Thy foundations shall be laid." That was a sure word of prophecy, as subsequent events had disclosed. Out of the inspiration of that Montreal meeting, for instance, the Canadian Bar Association came into being, one of its purposes being to create closer unity among the members of the nine Bars of Canada, and common ideals. Another was to get contact with the British Bench and Bar, and, again, there was success, for at their annual meetings they had had most distinguished representatives from this country, three of them being ex-Lord Chancellors. The American Bar Association had always encouraged the Canadian Association and had sent to them its leading lawyers, most of whom had been its presidents. That great gathering showed that the members of their profession had been effectively directing their thought to the end mentioned, and that there was a stronger impulse in their nations moving the people so to build on the foundations that they might grow into a living temple in which all the members of our common civilisation might worship. The members of the two associations had now come to the ancestral home of our law, to that shrine, Westminster Hall, built by William Rufus, oak-roofed by Richard II, the seat of English law for seven or eight centuries, the walls of which had listened to great State trials and conclusions which had given us our systems of constitutional government. They were gathered in the ancestral home of their law, where had been taught the fundamentals of freedom and of sacred property rights, and the methods of local self government under which those rights and freedoms could be best maintained. Given there the common law born out of experience of centuries and softened by equity, the United States, Canada, Australia, New Zealand, the Union of South Africa, and the Irish Free State had arrived at nationhood under the same pilot, the British spirit, and substantially by the same route, though some had had a little more storm passage than others. The lawyers of England and Canada warmly welcomed those of America, and they cordially responded for the United States and all the nations of the British Empire. The United States and all the nations of the British Empire lived and moved and had their being in the same spirit—it might be called the spirit of our civilization, of our race, or the British spirit, but it was a spirit which had its root in this land and in its history, its traditions, its customs, literature and laws. From the upspringing trunk a nation budded in 1776 at the Declaration of Independence. Another branch came forth when the British North America Act was passed in 1876, and, farther along were other branch nations. They all bore similar fruit, like-mindedness and corresponding heart-thinking, and deep-seated goodwill, and the leaves of the tree might be for the healing of the nations.

The LORD CHANCELLOR, as the titular head of the legal profession, welcomed the guests. He said the gathering was remarkable in that Canada joined, through her Bar Association, with the lawyers of Great Britain, in tendering their good wishes to the Bar Association of the United States. Sir James Aikins had referred to the fact that the welcome was being given in the hall of William Rufus. It was most natural that it should be so, for that hall belonged to those in the United States just as much as it belonged to Great Britain. It was the home of those who were our ancestors in fashioning the common law of England, and of equity too, and of the Constitution of the United States. For, even the genius of Alexander Hamilton was insufficient to keep out of the interstices of her written Constitution and tradition the inherent unwritten constitutional tradition which is always dear to every English-speaking interpreter of that Constitution. John Marshall, their great chief justice, showed that was so. Westminster Hall had a quality of its own. It was part of the palace of Westminster, which was burnt down in 1834, but it survived and was to-day much as William Rufus left it. It could not be dissevered from the Palace itself. There, in the old days, was held the Court of Requests, when Chancellors of the successive Plantagenet Sovereigns fashioned the writs of summons and other writs, and looked after the interests of the attendant barons and lords. In those old days the Lords and Commons were not separate estates, and all the King's assembly sat together. They sat in that hall, and there the Plantagenet Sovereigns dispensed justice as it was then understood, a justice which in those days did not separate sharply what were justiciable questions from those of a political character. The Bills with which we were now familiar as being brought into Parliament were the petitions presented to the Sovereign by the people in that great assembly, and the King dealt with them on the advice of his counsellors in a semi-judicial way, much as he might have dealt with a lawsuit. It would be seen how near State-craft and law-craft were together. Later they were separated. On one hand grew up the old Court of King's Bench, over which many great men presided—men who belonged to American history just as much as they did to ours. Edward Coke, Holt, all King's judges, were there, and, last but not least, the silver-tongued Murray, Lord Mansfield, who was in many respects the greatest of them all. In that court he fashioned the Law Merchant, which had so great an influence on the jurisprudence of the United States, as well of this country. In the House of Commons he was almost equally great, but there was a greater, and in that court, when Mansfield came to preside there from the House of Commons, the tones of Chatham could be heard in sonorous volume, reaching through the Court of Requests so as to extend to the hall in which they were assembled. Murray, his rival, sat there, and it was there and at the Guildhall that he finished that body of law which had been the foundation of much of the jurisprudence of the United States, as well as of Canada. In one court, the old Court of Chancery, that most brilliant man, Francis Bacon, Lord Verulam, presided; Somers, orator, statesman, man of character, also presided as Lord Chancellor; and there the chair of the Lord Chancellor was finally occupied by Lord Hardwicke, perhaps the greatest of equity judges. To those coming from the United States, the name of Lord Hardwicke was very familiar, because the system of equity of which he laid the foundation from his very perfect knowledge of the Roman Law was finished and put into even more scientific form by the great American equity lawyer, Story, who was judge and professor at Harvard, and Dean Langdell, who, for twenty-five years at Harvard University, strove to bring the principles of equity into the crystal form which they had since obtained, partly owing to his exertions. Westminster Hall was indeed something of which they who came from the United States might well be proud. It belonged to them as much as it did to the people of Britain, and up to the time of the Declaration of Independence it was physically their possession. He had always thought that the great event of 1776 was a fortunate event in the end. He believed that it had done more to fashion and strengthen the ties between the people of the United States and the people of this country than anything else that had happened in the world's history. It had not prevented the people of the United States from having a sense of common inheritance with those of Britain in the great legal institutions of which he was speaking. There, in that hall, the ancestors of both did their work. There they gave their names to some of the great deeds in history and law, and it was surely right that that hall should be the place chosen in which to accord them a heartfelt welcome.

Mr. C. E. HUGHES (Secretary of State, United States of America, President of the American Bar Association) returned thanks on behalf of the American Association, for the most generous welcome they had received. He said that from the time of the visit of Lord Coleridge to America, forty years ago, they had had the privilege of welcoming to the United States the highest representatives of the English Bench. In this company of American lawyers, coming with reverence and gladness to this ancestral roof-tree of the law, would be found

justices of the Supreme Court of the United States, judges of other Federal States and of the highest courts of the States, and representatives of the Bar from every part of the States. They came rejoicing, and this had become, he was happy to say, a fixed habit of two peoples intent upon co-operation in the interest of peace. They came to tighten the bonds of friendship. They were gratified to receive the greetings of their Canadian brethren, with whom they had an invincible accord. Many, probably most of them, were bound to Britain by ties of blood, but even stronger was the sense of the spiritual kinship that they were all privileged to have with those who in this island developed the institutions of liberty which had been brought to the new world, and were there so fondly cherished that they were safeguarded in an unprecedented manner. They came in the spirit of fraternity, which had triumphed over the diversities of the forty-eight Commonwealths in their Union, because it was in truth the spirit of the larger fellowship represented at that assembly, in which differences of particular interest and environment could not avail to obscure the community of tradition of those who had been trained according to the standards and the method of the common law. They came with even a larger aim than the enjoyment of fraternal association, in order that by these agreeable interchanges and a more intimate knowledge of each other they might promote a clearer appreciation of their privilege, opportunity and responsibility as ministers of justice in a world which needed justice and the reasonableness which made justice possible. He believed that Blackstone had expressed the view that "the common law of England as such had no allowance or authority in the American plantations," they being, he said, "no part of the Mother Country, but distinct, though dependent Dominions." That was not the American view. With them the common law was treasured as a part of their birthright and inheritance. The Congress of the Colonies, in 1774, asserted that it was "a branch of the indubitable rights of liberty to which the colonies were entitled." It was pleasant to think of the tenacity with which the revolutionary leaders clung to the tradition of English law. Thus, in 1777, when John Jay, who was to be the first Chief Justice of the United States, and his young associates were endeavouring to provide a new form of government for New York, the constitutional convention itself was compelled to move about to avoid attack and capture. But, harried by the British in arms, and in peril of their lives, they still cherished their inheritance of law. They were revolutionists in the interest of an ordered liberty. And thus, it was expressly ordained in the first constitution of the State of New York that such parts of the common law of England and of the statute law of England as were embraced in the law of the colony should continue to be the law of the State, subject to such alteration and provisions as the Legislature should make. Similar provision was made in the constitutions and statutes of other States, and in this way their rights as lawful heirs were formally established. As Kent, the American Blackstone, put it, the common law "fills up every interstice and occupies every wide space which the statute law cannot occupy." To adopt the words of one of their early jurists—100 years ago—"We live in the midst of the common law; we inhale it at every breath; imbibe it at every pore; we meet it when we wake and when we lie down to sleep; when we travel and when we stay at home; and it is interwoven with the idiom that we speak; and we cannot learn another system of laws without learning at the same time another language." The ten talents that America thus received had been employed so profitably that they were almost overcome by the wealth that had flowed from the investment. The commonwealths in their Union of States, each sovereign within its sphere, were producing laws at a rate which had filled them with anxiety lest no one should be able to know the law. The fertility of the native soil was their despair. Courts were pouring out decisions in such numbers that only the makers of encyclopædias could keep track of them. With the relatively compact jurisprudence here, he felt sure there must be an inadequate appreciation of the possibilities of the common law and of the consequences for which they had perhaps the ultimate responsibility. Lord Coleridge had observed that he was familiar with the distinctions between their State and Federal Courts, but that he found, so far as he could make out, that there were "to a foreigner apparently conflicting and intricate jurisdictions which, with all the will in the world, he was not able adequately to comprehend." But, after one had recovered somewhat from one's surprise at these diversities, one would then have a new surprise and a far more lasting impression of the essential unity despite all these differences, a unity which made them in their complex and intimate relations, in their vast internal commerce and network of activities, one people, with a constantly increasing consciousness of solidarity and unity, which had been victorious over the bitter sectional animosities of the past, and the differences in origin in the circumstances of settlement, in climatic conditions, and in particular interest a unity, which his hearers would not fail to perceive had its root in the common conception of the fundamental principles of law and liberty. They had come to the shrine of the common law not to extol a body of particular rules. At the very outset it was a small body of law that they took over, most of which long ago became only of historical importance. Kent told that in the growing State of New York "the progress of jurisprudence was nothing prior to 1793. There were no decisions of the court published." The common law was entering upon a new period of development, and in the United States it had its special adaptations to their needs. There were the imperative demands of new institutions, of new relations, of distinct political conceptions. There had been ever-changing exigencies to which the law must make response. Their master builders thus worked their materials into a structure distinctively American. It was this spirit of the common law which, in the eloquent words of Mr. Justice Story, "has become the guardian of our political and civil rights. It has protected our infant liberties; it has watched over our maturer growth; it has expanded with our wants; it has nurtured that spirit of independence which checked the first approaches or arbitrary power, which has enabled us to triumph in the midst of difficulties and dangers threatening our political existence, and, by the goodness of God, we are now enjoying under its bold and manly principles the blessings of a free, independent and united government." They would miss, however, the purpose and advantage of this meeting if they were content with mere panegyric, and it gave point and emphasis to this generous appraisal to consider its grounds. The fundamental conception which they especially cherished as their heritage was the right to law itself, not as the edict of arbitrary power, but as the law of a free people, springing from custom, responsive to their sense of justice, modified and enlarged by their free will to meet conscious needs, and sustained by authority which was itself subject to the law of the land. If, as Mr. Justice Holmes had said, "the life of the law is not logic but experience," the life of the common law had been the experience of freemen. It might be, as had been pointed out by the historians of English law, that it was possible for men to worship the words of Magna Charta because it was possible to misunderstand it; but they were careful to observe that analysis did not destroy one's reverence for it as a sacred text, for it meant that no one was or could be above the law. As they put it, "The law for the great man has become the law for all men, because the law of the King's Court has become the common law." The spirit of the common law was opposed to those insidious encroachments upon liberty which took the form of an uncontrolled administrative authority—the modern guise of an ancient tyranny, not the more welcome to intelligent freemen because it might bear the label of democracy. It was doubtless impossible to cope with the evils incident to the complexities of our modern life, and to check the multiform assaults of organised cupidity by the means which were adapted to the simpler practices of an earlier day, but there was an instinctive feeling that there was no panacea for modern ills of bureaucracy. There was still the need to recognise the ancient right—and it was the most precious right of democracy—the right to be governed by the law and not by officials—the right to reasonable, definite and proclaimed standards which the citizen could invoke against both malevolence and caprice. They of the common law respected authority; but it was the authority of the legal order. They respected those who, in station high or humble, executed the law—because it was their law. They esteemed them, but only as they esteemed and kept within the law. In the United States they put their Bill of Rights, the protection of individual rights which were their common inheritance, into their written constitutions, and placed them, so sacred were these rights deemed to be, beyond the reach of the power of Legislatures. They created a government in which the powers of the different branches were carefully limited, but this conception of limited powers was directly traceable to the principles of the common law and its development in resistance to arbitrary power. So that in that feature of their jurisprudence which was most distinctive they were holding to their heritage. They had established citadels to make secure what their ancestors had won. After they had done that, they proceeded to expound the principles which were thus set forth in historic formulas, according to the method of the common law, so that they had virtually a common law of their constitutions, Federal and State, which expanded from precedent to precedent in a constantly growing body of law. They had provided the constitutional guarantee that no one should be deprived of life, liberty, or property, without a process of law. But this did not confine practice to archaic forms, or deny the opportunity of improvement. It did not refuse to Legislatures the authority to enact reasonable measures to promote the safety, health, morals and welfare of the people, or make rational experimentation impossible; but it was intended to preserve and enforce the primary and fundamental conceptions of justice, which demanded notice and opportunity to be heard before a competent tribunal in advance of condemnation, and, with respect to every department of government, freedom from arbitrariness. The process of applying these

formulas had proved to be an education of reasonableness after the essential method of the common law. With the common law they took its distinctive feature, trial by jury, at once a bulwark of freedom and an effective method of applying to infinitely varied statements of fact within ordinary experience the common sense of the community. But, in obtaining the practical advantages of this method they had found what was, especially for them, a most important by-product, the advantage of which in the maintenance of free institutions was rarely mentioned. He referred to its advantage as a means of instruction. Throughout their land, in more than 2,500 counties in their States, the citizens were constantly sitting in grand juries and petty juries in criminal cases, and as trial jurors in civil cases, so that the qualified portion—which was very large—of the population was constantly passing in rotation through the courts, receiving directions, obtaining schooling in the laws, and acting as responsible critics and valuers of assertion, testimony and argument—a priceless discipline of democracy. The spirit of the common law demanded, as the correlative of the right of freemen to the supremacy of law, the exposition and application of the law by an expert and independent judiciary. Not only did the common law, as the guardian of liberty, depend upon a fearless bench as the guardian of the law, but in the United States they had created a novel and extraordinary judicial responsibility, and their whole constitutional system rested on the integrity and independence of the judges. The relation of State and Federal power, which gave the national authority they needed for national concerns without interfering with the desirable autonomy of the State in purely local concerns, could not be maintained except by the judicial power authoritatively expounding the constitution. Otherwise federal power would be at the mercy of State Legislatures, or State legislative power would be subject to the control of the Federal Congress. In either case the legislative power would still be the supreme law, despite constitutional restrictions, and instead of a systematic development of constitutional law, there would be the fluctuations of a control dictated by political expediency. It was realised at the beginning that the courts of Justice were organised "with peculiar advantages to exempt them from the baleful influence of faction." They had given, as had been well said by Mr. Evarts, "a new exaltation to the power of the judiciary. We have lifted up the principle of the common law—we have exalted it to the point that judicial reason, and in the forum of forensic discussion, shall be the final arbiter of the rights of the people against their Congress, against their magistrates, and between the States and the nation—that all shall obey." This difficult and delicate duty had been well discharged and, notwithstanding repeated efforts to undermine this jurisdiction of the Supreme Court of the United States as the final authority in the interpretation and application of the Constitution, it retained its hold upon the confidence of the people. He believed that the attacks upon it, once more renewed, would again fail. But they owed their success in this enterprise, as well as in the general administration of the law, to the tradition of a fearless and independent bench, illustrating the supremacy of law, a tradition which perhaps was the most valuable part of the inheritance they had received from their common forbears. The spirit of the common law was incarnated in learned, conscientious and fearless judges. The great judges of England had been their exemplars. When their judges had attained repute in their contribution to a developing jurisprudence in a new country, they had exhibited the constructive genius and the statesmanlike quality of the great English judges whom they had emulated. Coke, Hale, Holt, Mansfield, Nottingham, Hardwicke, and their worthy successors, belonged to them as well as to England. They had taught them, fortified them, inspired them, and such skill as they had shown in the development of their judicial institutions had come from their training in the school in which they were masters. But if they had maintained the traditions, so happily received, of an independent judiciary, it was only because that they had also conserved the tradition of an independent bar, not servile to authority, but always keen for the defence of individual rights against abuses of power, intent upon giving every man his day in court, and ever watchful of judicial arbiters, lest they should lose their footing in the slippery paths of the law. The judge might exemplify the impartiality, the learning and the wisdom of the law, but the bar was the source and the guardian of the virtue of the bench. In that meeting they were reminded of their common professional ideals—of duty to client, of loyalty to trust, of responsibility for the administration of justice. It was sometimes said that lawyers were far behind those who lead the army of progress, but this was because they had in their special keeping the accumulated riches of experience. There was one department of endeavour, however, in which they must ever be foremost, and that was in that broad field which had to do with the efficiency of the administration of the laws, the promptitude and reasonable certainty of their execution, the removal of the obstacles to justice under law, of vexatious delays and inordinate expense. And in all efforts to improve the laws and their adjustment to new conditions and exigencies, society needed the expert knowledge and the sympathetic understanding of the Bar. That meeting of those who enjoyed a common tradition and cherished a common purpose could not fail to heighten their sense of responsibility, as they found their strength renewed, their ardour quickened, and their hearts deeply stirred as they sat together at the fireside in the old homestead.

Mr. Justice SUTHERLAND (Associate Judge of the Supreme Court of the United States) also acknowledged the welcome. Westminster Hall, he said, was more than a place: it was more than a name: it was a shrine where English-speaking lawyers the world over might stand with uncovered heads. There, for centuries, sat the great courts of England, there resounded the voices of her famous lawyers and statesmen, there Bacon was justly condemned, there the seven judges were tried, and there Hastings was acquitted. It still stood, a noble and inspiring monument to the system of laws whose principles were greater than all judges and lawyers, and which would live as the common heritage of all who spoke the English tongue long after the structure in which they were meeting should have mingled with the common dust. So fleeting was man, but so lasting were the foundation stones of the common law of England. They were indebted to the Mother Country for many things, upon some of which, he fancied, they had improved, and upon some of which, he was reasonably certain, they had not—Shakespeare, for example. The outstanding difference might be stated by saying that the English Constitution advised, while the American Constitution commanded. It had often been said that blood was thicker than water. And so it was, as they had discovered on more than one occasion of crisis. There was very little of emotion in the friendship of the two peoples; neither was given overmuch to sentimentality; they were both essentially matter of fact, and he was glad to believe that both were straight-thinking, square-dealing peoples. They met each other as man to man, clasped each other by the hand, looked squarely into each other's eyes, and told each other the truth. They sometimes indulged in that form of criticism which was the peculiar privilege of close relationship—upon the surface there was occasional trouble, but beneath the surface, at heart, he was sure, their friendship was deep, substantial and abiding. He was firmly convinced that the future of civilised mankind depended upon the continuance of friendly relations among the English-speaking peoples of the world, more than upon all else combined. If that great meeting of English and Canadian lawyers would result in no other lasting benefits, he had an abiding faith that through it would come a better understanding and a firmer determination to co-operate for the everlasting perpetuation of the blessed peace which had been theirs for more than a century of time, and for the establishment and maintenance of peace throughout the world as well.

The Lord Chancellor and the judges and other dignitaries who had attended him then ascended the stairs, leaving the hall by the south entrance.

The Gift of the Statue of Blackstone.

A statue to Blackstone, presented by American lawyers to their English brethren, was on Wednesday unveiled in the Central Hall of the Royal Courts of Justice. The great hall was almost filled by English, American, and Canadian lawyers and their friends.

Many of the English judges were present and entered the hall in ceremonial procession, headed by the tipstaff, or constable of the courts, carrying his small wand of office. Then came the Lord Chancellor's mace bearer and the bearer of the Purse of State, introducing the Lord Chancellor, Viscount Haldane, himself, wearing not his heavy, glittering State robe, but the plain black gown of the lawyer and the full-bottomed wig. Immediately behind in order of precedence came the Lord Chief Justice, Lord Hewart, the Master of the Rolls, Sir Ernest Pollock, Lords Justices Banks, Warrington, Scrutton, Atkin, and Sargant, of the Court of Appeal, and Justices Eve, Horridge, Russell, Bailhache, Sankey, Lawrence, Branson, Hill, Rowlatt, Greer, Romer, and Tomlin. It was an agreeable circumstance to see also in the procession Lord Darling, who just now happens to be acting as an additional judge of the King's Bench Division. Accompanying the Lord Chancellor was Sir Claud Schuster, K.C., Permanent Secretary.

The judges seated themselves within a railed semi-circle before the statue, joining others of legal and judicial eminence already assembled, including Lord Shaw, a Lord of Appeal in Ordinary, Sir Patrick Hastings, K.C., Attorney-General, Sir H. H. Slesser, K.C., Solicitor-General, and several American and Canadian judges and jurists. Close by were Sir John Simon, K.C., Mr. Hughes, K.C., and other leading members of the English Bar, and, gathered behind the enclosure, both English and visiting lawyers in great number. The Lord Chancellor sat alone on a small, red-carpeted platform at the foot of the statue, and to him directly were addressed the eloquent words of Mr. Wickersham, recorded below.

The Hon. GEORGE W. WICKERSHAM, making the presentation, said: It is my privilege, on behalf of the American Bar Association, to tender to the British Bar this statue of Sir William Blackstone as a lasting memorial of the meeting at this time in London of the representatives of the Bench and Bar of the two great English-speaking nations. The statue has been designed by one of the most eminent American sculptors. The plaster model which we now behold in due time is to give place to permanent marble or bronze, according as it may be determined to erect the statue within these halls or out of doors. The cost of the work has been met by many small voluntary contributions from lawyers of all parts of the United States. It is, therefore, truly the offering of American lawyers to their British brethren.

Blackstone was selected for this purpose not merely because in the whole literature of the English law no other name is so well known and so highly respected as his, but because, as Lord Bryce once felicitously said, his Commentaries of the Laws of England form one of the links which best binds the United States to England. Paradoxically, these same commentaries furnished to the American colonists the most effective weapon of their revolution against the Mother Country. It is stated on good authority that during the colonial period, about 150 young gentlemen, mostly from the Southern and Middle States, went from America to London, entering the Inns of Court, and, returning, brought back with them not only a knowledge of the English law and of the law books in use, but, what was better, they brought the books themselves. These books were widely read by lawyers who had not enjoyed the privilege of residence and instruction in England, but were earnest students of the law. As the eighteenth century advanced, more and more the question of the rights of the colonists and of the Colonial Governments with respect to the home Government was the subject of study and discussion. The colonists claimed all the rights of British subjects. There was, however, no agreement between the lawyers or the representatives of the Governments on opposite sides of the Atlantic as to precisely what those rights were. When, in November, 1765, the first volume of Blackstone's Commentaries was published in England, followed within a period of four years by the three additional volumes, the work was seized upon and read not only by lawyers, but also by intelligent laymen throughout the colonies.

Twice in the history of England, says Maitland, has an Englishman had "the motive, the courage, the power to write a great readable, reasonable book about the English law as a whole." Those two men were Bracton and Blackstone. Bracton's treatises on the laws and customs of England were five centuries old in 1765. Moreover, being written in Latin, the work was accessible only to scholars. Blackstone wrote in English. He wrote for the laity rather than the Bar, with the laudable purpose of giving to Englishmen of property and station a general and systematic knowledge of the laws and institutions of their country. His opinions concerning the American colonists were hardly of a flattering character, nor did he regard them as possessed of any of those inherent rights of Englishmen whic h he ascribed to the dwellers in England. The colonists accepted Blackstone's definition of English rights, but they rejected his classification of the American colonies as historically inaccurate and obviously unsound, and they passionately asserted their title to the rights of true-born Englishmen.

After the establishment of American independence the Supreme Court of the United States, in a very early opinion written by Chief Justice Marshall, judicially adopted Blackstone's principle of the colonists carrying the law of the Motherland with them into the new country, and declared it to be applicable to the American Colonies and States. A like principle was embodied in State constitutions and affirmed in decisions of State Courts. The common law of England was recognised throughout America as the root and fabric of American law. The greatest, the most far-reaching, influence of Blackstone's work was realised in America. Within a period of two or three years after the publication of the first English edition upwards of 1,000 sets were sold in America at £10 per set. In 1771 a publisher named Bell printed the first American edition at £3 per set. The list of subscribers included such names as John Jay, first Chief Justice of the United States; John Adams, the second President and one who signed the Declaration of Independence; James Wilson, who later became a justice of the Supreme Court; Governor Morris and Robert Morris, framers of the Constitution, and others who were eminent in the early history of the new nation.

Nor was the list confined to lawyers. It included farmers, merchants, cabinet-makers, military men, tavern-keepers and others. Burke, in moving his resolution for Conciliation with the Colonies, probably was correct when he said, "I hear that they have sold nearly as many of Blackstone's Commentaries in America as in England." The Commentaries were written so delightfully that it wrung a reluctant tribute of admiration even from the critical Bentham. Professor Thayer, of Harvard Law School, in a lecture, refers to Blackstone as "reducing to orderly statement and to an approximately scientific form the disordered bulk of our common law." It was this triumph of orderly statement and pleasing style which marked Blackstone's work. In the colonies, from the moment the Commentaries appeared, men were eagerly reading and pondering over Blackstone's enumeration of the rights of British subjects and his description of the main points of the British Constitution, and forming a determination to compel recognition by the English Government of those rights as their own. They read in Blackstone's volumes of the absolute rights of individuals, generally denominated the natural liberty of mankind; they learned that the right of trial by jury and the protection afforded by rules of law administered by independent and impartial judges were essential to the maintenance of civil liberty. One may clearly trace the influence of Blackstone's Commentaries on the mind of Jefferson in the formation of the Declaration that all men are born with certain inalienable rights, among which are life, liberty, and the pursuit of happiness, and that to secure those rights Governments are instituted among men, deriving their just powers from the consent to be governed.

That the monarchical Blackstone so practically contributed to the establishment of democracy in America, Mr. J. N. Thorpe, in his "Constitutional History of the American People," declares to be a paradox without parallel in history. Blackstone's Commentaries undoubtedly furnished invaluable suggestions to the framers of the constitution of the United States. The common law, as Blackstone set it forth, became the fundamental law of America. It may confidently be asserted that until the case system of studying law, introduced by Professor C. C. Langdell, of Harvard in 1870, superseded the text-book system of instruction in the University Law Schools, the Bench and Bar of America were more familiar with Blackstone's Commentaries than with any other book. Many men who became eminent in the profession were led to study law through reading Blackstone.

It was the first book put into the hands of every student. In 1835, Lincoln, then a boy of seventeen, by chance came into possession of the four volumes of Blackstone, which he read with avidity. "The more I read," he said, "the more intensely interested I became. Never in my whole life was my mind so thoroughly absorbed. I read until I devoured them." Much of the law set forth in the Commentaries has become obsolete in England as well as in America. No writer in the law ever has for so long a time enjoyed such supremacy as he, and no other has exerted such an influence over a great nation in the hour of its birth and during the years of its growth to full maturity of statehood. It therefore appears to us that this statue constitutes a peculiarly fitting expression of the bonds which unite the American Bar to the lawyers of England. It is a symbol of law and justice—of the influence of law over nations and people who "though seas divide and oceans rule between," remain united in their reverence for liberty regulated by law. We, therefore, pray you, my Lord Chancellor, and gentlemen of the British Bar, to accept it as a perpetual reminder of this auspicious meeting, and as the essence of the ties that bind us together as fellow members of that profession upon which depends the maintenance of law and the continuance of justice. Let it stand here as the symbol of the ties which unite the peoples of our respective countries in devotion to the common ideals of free men of English speech.

Mr. Wickersham then drew aside the flags which had up to this point concealed the statue.

The LORD CHANCELLOR, on behalf of the profession, expressed his pleasure in accepting the memorial with affectionate gratitude, and with reverence of the great figure whose statue had just been unveiled. The gift, he said, would strengthen yet more the bond which bound English lawyers to their brethren across the Atlantic. It was the work of one of America's most distinguished sculptors, and it would stand there for generations and for centuries to remind all who saw it of the figure that inspired the lawyers of America as it had inspired those of England. It was the custom to-day to criticise Blackstone, but it was less the custom than it was a century ago. The criticisms were founded on a want of understanding. The truth never stood still, even in the development of legal theories. The spirit of the common law had assumed different forms as generation had succeeded to generation. It was easy for Paley, twenty years after Blackstone had died, to scathe these theories in a passage which was memorable; but Paley himself was presently assailed by the later generation of lawyers, who themselves had afterwards been relegated to the lumber room of juridical conceptions. It fell largely to the United States to rescue the memory of Blackstone and to put his teaching in its true setting. American lawyers had done what had been done elsewhere, but nowhere with more power. They had shown how law could not be interpreted apart from the constitutional history of the time. The Americans had had their own Blackstone, the illustrious Kent. They had had John Marshall, who was brought up on Blackstone's teaching. Blackstone did that which no man had ever done before him, and

which few had done better since. In Blackstone's Commentaries the passage that perhaps was most striking was that the English lawyer, steeped in the traditions of the early part of the eighteenth century, began his work by saying that he spoke as the first pioneer of the teaching of the law at the University of Oxford; and he gave those university lectures which were afterwards incorporated into the Commentaries. That did not seem strange to American lawyers, who were familiar with it in the law schools of their universities. The spirit of Blackstone had descended upon the lawyers of America, as it had descended upon the lawyers of England. Blackstone remained, as he always would remain, a great figure. Mr. Wickersham had presented them with a noble memorial, a memorial which, as he had said, marked another milestone on the path which the nations were treading side by side. Occasions like this did much to cement and deepen understanding between the United States of America and Great Britain.

The ATTORNEY-GENERAL expressed, on behalf of the Bar of England, a deep sense of gratitude for the gift. He hoped that the visit of the American Bar had been a happy and a pleasant one. Lawyers had their critics in this country as American lawyers had theirs, at times ill-informed and without a full knowledge of their subject. But he thought everybody in the hall would agree with him that they believed and knew that no country could be happy and prosperous unless its prosperity was sustained by the large number of citizens who were determined in their hearts to maintain its honour in the practice of the law. It was, no doubt, something akin to that feeling which moved the donors of the statue. In this country lawyers liked sometimes to think lawyers in America derived some benefit from some things which they were able to give, or perhaps, to lend. And this statue was in their belief, the symbol of one of them. Blackstone's genius was common to both their nations. They both benefited from him and there was not a single day during that Congress when he (the Attorney-General) did not hear it said that the judges of our land had derived inestimable benefit from the wisdom of the judges of the United States, who, in their turn, he was sure, would be the first to say that they had derived some of their wisdom from the man whose statue had been unveiled that day. He liked to think, and he was sure all his brothers liked to think, that was the feeling of the visitors.

THE GIFT OF A PORTRAIT OF CHANCELLOR KENT.

The Hon. EDWARD R. FINCH, on behalf of the School of Law of Columbia University—one, he said, of the oldest schools in America, whose graduates had gone to every State in the Union—desired to present to the Council of Legal Education a portrait of Chancellor Kent, of New York, who was a great commentator on the common law, which would be delivered as soon as it had been finished. In addition to his judicial and other duties Kent was a professor in a school of law. As a professor he yet found time to write the four volumes which composed his Commentaries. From the graduates of the school he (Mr. Finch) brought this as a special greeting to the Council of Legal Education, and it made another bond of union between them, and bound them more closely together in the great cause of legal education. Blackstone was universally recognised as their great English ancestor in regard to the common law, and in the same way the people of America recognized Chancellor Kent as the great American commentator on the common law. He had been rightly called the "Blackstone of America." There was one famous sentence of his, an understanding of which might help in keeping world peace and in aiding the only practical plan now before the world for the settlement of international disputes through the principles of justice embodied in law rather than through war. It is "States and bodies politic are to be considered as moral persons, having a public will, capable and free to do right and wrong, inasmuch as they are collections of individuals, each of whom carries with him into the service of the community the same bond of law and morality and religion which ought to control his conduct in private life." The day will come when justice will reign supreme internationally as it does nationally. Kent was the first chief justice of the United States and he was joined with those who endeavoured to promote a form of government for New York. Harassed by the British in arms they yet cherished the traditions of British law. They were revolutionaries in the interest of order and liberty. The Common Law continued to be the law of the nation, subject to such modifications as it was seen were necessary to be made. Of course, there was a differentiation of legislation in the forty-eight States of the Union, with respect to their local affairs, but he believed that everybody would come to the conclusion that there was a growing sense of solidarity which governed their conceptions of liberty and of law, a fundamental conception which they cherished in coming to this shrine of the Common Law. There could be no salvation for the people unless there was liberty under the law. The visitors from America would not return home quite as they had come to England. It was impossible to leave these historic gatherings without renewed strength.

Lord Justice ATKIN said he had the honour and the great pleasure to accept, on behalf of the Council of Legal Education, of which he was the chairman, the offer of the picture of the great American lawyer and commentator, Chancellor Kent. On an occasion like this he supposed that no description of him would perhaps, be more appropriate than to call him the American Blackstone. It was the aim of the great commentator whose beautiful sculptured figure had been presented to-day to inculcate the principles of the Common Law among those who practised the law. That was also the aim of Chancellor Kent. He (Lord Justice Atkin) was reading only the other day an extract from his commentaries, in which he said that the "knowledge intended to be communicated in these volumes is not only that which is essential to every person who pursues the science of the law as a practical profession, but is deemed to be useful and ornamental to gentlemen in every pursuit, and especially to those who are to assume places of judicial trust and to take a share in the councils of our country." That was an ideal which was still cherished, he thought, by those who were active in the cause of legal education in this country, by those who had chiefly to deal with the vocational education of students who were preparing to become members of the Bar. But they had the assistance of great writers who had made it their object to disseminate the great principles on which liberty, justice and order depended in this country. And to those who drank from the waters of the Common Law, it would be a great inspiration to look from time to time upon the portrait of one who was, perhaps, one of the greatest of those who, upon the American side, as others had done on this side, had helped to distribute legal knowledge. They accepted the picture in recognition of the great fact that they were both animated by the same principles of law and they would also regard it as one more record of that bond of union which had not been created for the first time, but which undoubtedly had been increased and encouraged by this meeting, this great and historical occasion.

Lincoln's Inn.

At the dinner given by the Treasurer and Benchers to the American Bar Association on Monday, 21st July, Mr. Justice Eve (Treasurer) in the chair.

The Rt. Hon. HERBERT HENRY ASQUITH, K.C., M.P.: Mr. Treasurer, Masters of the Bench, and Members of Lincoln's Inn. All the ancient Inns of Court are joining this week, wholeheartedly, in giving a welcome, under unique conditions, to our brethren in law from the United States of America. In this Hall I have the privilege, as one of the Senior Members of the Bench, to be the mouthpiece of what I know are the feelings and the sentiments of, what we here at any rate believe to be, the oldest in date of these venerable Societies. The Inns of Court, all of them, have little or nothing to do with that strange modern cult, the art of advertisement, which here, in London, has been celebrating itself during the past fortnight, with what seems to some of us, and certainly to me, a superfluity of ritual. We belong, whether we are members of Lincoln's Inn or of the Temples, or of Gray's Inn, to the pre-advertising age. We compete, and we have competed for some six or seven centuries, in friendly rivalry in the daily activities of the greatest of all professions, and during the whole of that time we have been, and are, debarred by a continuous and unbroken tradition, which I hope myself will long survive, from pushing our wares. Why should we? As you all know, even if the world outside does not, there is no civilised community, in the largest part, at any rate, of the world, that can do without us. Wipe out, if by any stretch of your imagination you can achieve the task, from the British Empire and from the United States of America the legal profession, what would be found?—a disorderly and unilluminated chaos—a chaos which I do not hesitate to say would call for a speedy and emphatic repetition of the Creative command: "Let there be light." We were once in this country, in mediæval times, in a fit of aberration, foolish enough—or our ancestors were—to debar lawyers from the right of sitting in Parliament. The result was that Parliament, which is known in history as the *Parliamentum Indictum*, of which Lord Coke, than whom there can be no higher authority, declares "It did not pass one single law that was worth twopence."

Mr. Treasurer, I should like, before I propose this toast, to say two or three words to this great assembly, united by the bonds of one of the closest of all fraternities, of the essentials of the great profession to which we all belong. In the first place I assert without any hesitation that there is no profession in the world, as it is practised in the British Empire and the United States of America, in which the claims of honour, personal and corporate, are more rigidly exacted and more scrupulously obeyed. Another thing: ours is a profession in which by the very nature and exigencies of our calling we are constantly engaged in acute controversy and contention. There again, I will say there is no profession anywhere in which the sense of comradeship, the spirit of mutual and friendly regard, is more consistently maintained, and, lastly, and perhaps more important

than either of those considerations, at least in my judgment, there is no profession—I do not care which you choose to enter into competition with it—either on this or the other side of the Atlantic, which has done more, in the way both of effort and of sacrifice, to maintain the supremacy of law over force, to preserve the safeguards of liberty against any form of invasion, whether from the autocracy of a Sovereign or from the oligarchy of a class, or from the seductions and threats of a crowd. That, my brethren in law, is a sacred trust, and I speak with the utmost confidence when I say that here in the country, which is the mother of the Common Law, and elsewhere among you who have inherited that Common Law and cherished and developed it, I trust and believe we shall show ourselves not unworthy successors of the great men who established the traditions of our profession, in responding sensitively and strenuously to its imperative call. I ask you to drink the health of "Our Guests," and I am very glad to be able to couple with that toast the name of my old and much respected friend, Mr. James M. Beck, of the United States.

The Hon. N. W. ROWELL, P.C., K.C., LL.D., speaking on behalf of the Canadian Bar, who were associated with the British Bar in extending a welcome to their American guests, said: One cannot but recall the fact that just about 150 years ago one of the most distinguished members of this Inn was closing his great political career by a series of speeches in the House of Commons in which he was pleading with the members of the House of Commons to remove the grievances of the American Colonists, so that they might be able to manage their own affairs and still remain under the Sovereignty of His Majesty the King. Pitt had the conception of satisfied self-governing American Colonists still the subjects of His Majesty. Under the theories of government which then prevailed that consummation did not appear possible; and the solution you found was complete self-government and the satisfaction of your national aspirations by separation from the Mother Country. We have had the experience of 150 years of the English-speaking statesmen in the science of government, and this Inn has made a great contribution to the development of that science. We have had a contribution from the Bar of Canada and the Bar of other Dominions, and we are in this happy position to-night; the Canadian Bar standing side by side with the British Bar in the Mother Home of us all, joining in extending this welcome to our American brethren, because by the developments—the constitutional developments—particularly of the last fifty years—nay, of the last twenty years—to which our distinguished friend, Mr. Asquith, amongst others, has contributed; so that we are able to say to-night that we have as great freedom in managing our own affairs, we are able to satisfy our national aspirations as fully as you, and still remain with the Britannic family, and come Home and join in extending this welcome to you. Understanding the people of the United States better than the people of the Mother Country do, because of our close association, we hope we may play the modest part of being an interpreter of the one to the other, so that the great branches of the English-speaking race may march together in pursuit of those great ideals of justice and order, established by law and peace based upon justice, which is the great need of the world to-day. Mr. Treasurer, with this word I close. In proposing the health of our guests may I be permitted to pay a tribute to the magnificent part which the American Bar has played in providing the settlement of international disputes by the permanent Court of International Justice? The American Bar provided, and the American Secretary of State, a distinguished member of the Bar, Mr. Root, authorised an equally distinguished member of the Bar, Mr. Choate, to present to the Second Hague Peace Conference the proposal for the formation of a permanent Court of International Justice. That result was not accomplished at that time. At a more recent date Mr. Root co-operated in framing the Statute under which the permanent Court is now established. The American Bar throughout its history has stood for the settlement of international disputes of a juridical nature by a permanent Court of International Justice, so that we who have learned to supersede private war and settlement by ordeal of battle by the rule of law and Courts of Justice in domestic affairs, may extend that idea of the rule of law into international affairs, and so, as Mr. Asquith has said, justice may succeed in settling international disputes.

The Hon. JAMES M. BECK, in replying, referred to the ceremony at Westminster Hall that day, and said: Certainly your guests to-night, and I am inclined to think even our hosts, with all the memories of great events in this city, have probably never witnessed a more moving spectacle than that which we were privileged to witness in Westminster Hall to-day. It was a physical reunion of the two branches of our great profession; I do not say spiritual re-union, because there never was a spiritual dis-union. Whatever may have happened to the political state, the spiritual authority of the Courts of Westminster never ceased to have their impressive effect in the Courts of the United States; and, therefore, it was literally a home-coming to us coming to the ancestral roof, coming to see the lineal successors of those great judges from whom we have drawn so largely our inspiration, whose great decisions are daily quoted in the American Courts with respect and admiration—and sometimes with approval. Let me say to my American brethren who were allocated to Lincoln's Inn to-night that they were greatly privileged in such allocation; I willingly assent—because I would not dare to dissent from anything Mr. Asquith says—that this is the oldest Inn of the four great Inns, nevertheless, as a Bencher of Gray's Inn, I say it, as Mr. Guppy made his declaration of marriage, distinctly without prejudice. What an Inn! Which has given Sir Matthew Hale and Fortescue to the historic Bench of the English race; that gave those two rare and gentle spirits of the sixteenth and seventeenth centuries, whose words, if they had been heeded, would have turned history into a new channel; I mean to say Sir Thomas More, the gentlest spirit of the wild upheaval of the Revolution, and William Penn, the founder of a great and noble Commonwealth, in the United States, and, as I think, the greatest statesman of all times. And then there was Mansfield and Romilly, St. Leonards and Lyndhurst, and others whose names belong to the glory of our common profession; there was the long line of Prime Ministers commencing with Pitt, with Canning, with Disraeli, with Asquith; and may I say that all the troubles and burdens that ever fell upon the first four that I have named were as nothing to the burdens so gloriously borne by the gentleman who so eloquently proposed the health of the American Bar, who, being Prime Minister in that unforgettable year of 1914 staked the existence of the Empire or the rule of law in the world. And Mr. Beck concluded: We of the legal profession, bowing respectfully to the past, remembering the garnered experience of many centuries, desiring to transmit it, in a feverish and hectic age, to the next generation as the most priceless heritage that generation can have, suffer because we are charged with undue respect for the past and undue regard for the opinions of men who, like streaks of morning cloud, have faded into the infinite azure of the past. We know perfectly well that while any one dead man may not have a better opinion than the living, yet that the collective experience of many centuries is to be preferred, or at least is to have a strong presumption in its favour, as against the transient ephemeral and passing passions or prejudices of the living moment; it is because we stand for a great past, in your country and in mine, that the legal profession is looked at with prejudice, with suspicion, and sometimes with positive enmity. Let me illustrate, if I can, with this one final thought. What is it that so profoundly moves the American lawyers as they come back to this ancestral roof-tree and as they gather to-night in this and the other three Inns? What is it? Why is it that our hearts swell with emotion, that impressions are made upon us, so great and enduring that to our last breath we will never forget this visit to London? I think it can be best interpreted if I can recall, and I think I can, the last lines of that lovely poem with which Longfellow prefaced his fine translation of Dante's "Divine Comedy"; for he there pictured a man entering an old-world cathedral, laying down his burden and kneeling at the altar, in order to express his faith in something that was higher and greater than the living moment; and the lines that I have in mind run this way, expressing the opinion of the man:

> "The wild reverberations of the street
> Become an undistinguishable roar;
> The tumult of the world disconsolate, to
> inarticulate murmurs fades away,
> Whilst the eternal ages watch and wait."

Now such a Cathedral—I say it reverently in these Inns of Court—is the Royal Courts of Justice; such a Cathderal, above all, is Westminster Hall with its glorious and hallowed memories, for there the Eternal Ages watch and wait. That is the spirit in which we come to you, and all that we could express, Master Treasurer, is the profound emotion of our souls as we have made this visit to the ancestral roof-tree. Beggar that I am, we are even poor in thanks; but we do thank you, and be assured that, even as when Lord Russell came to America he left an abiding impression, even when another Bencher of this Inn, Lord Haldane, came to Montreal to meet the American Bar Association, he made a deep impression, so this great gathering—I sometimes think the culminating evidence of the solidarity, the spiritual solidarity, of the Ministers of Law in the great English-speaking race—is one of the greatest events that has happened in our life-time.

The Hon. MOORFIELD STOREY, the first President of the American Bar Association, in proposing "The Hosts," said:—Mr. Treasurer, and Gentlemen of the English-speaking Bar. I feel really like a very young man in dealing with the subject which has been assigned to me. Individually, I am as old as this hall. I find on inquiry that I was born in the year in which this hall was dedicated; but I feel, on the other hand, as the representative of America, very much younger, when I realise that Lincoln's Inn was established on this ground seventy years before Columbus started on his voyage to discover America. We are

some distance behind you, gentlemen, and I do not suppose we shall ever be able quite to catch up. Such meetings as we have had here, I think, accomplish an enormous good. It would be idle to claim that there have not been differences between our countries: that they have not recognised divergent interests; that there have not been irritations left, but we have learned that there is that force binding us together which cannot be broken, no matter how we strain it. I think the story of Charles Lamb carries a very important truth. You remember that he pointed out a man to a friend of his, and said: "How I hate that man." "Hate him?" said he, "Why?" "Do you know him?" "No, I do not know him; if I knew him I should not hate him." Now I am satisfied that when we come here, and you receive us as you have received us, with a cordial goodwill, with a recognition of our merits and our virtues, we cannot help liking you; we cannot help feeling the common ties that bind us together; we hope you like us; and we recognise that we have got to work together. It is a sorry world in which we are living. Wherever I go, I ask what the feeling of the country is, and I find that it is depressed. Berlin, Paris, London, New York—everywhere the world feels the consequences of the Great War. It is our duty, and the duty of every man and woman all over the world, to see what can be done to bring the world back to a proper condition. It is a work which falls particularly on the members of the Bar, on account of their education, their ability and their influence in the community. I have never believed that the people of the United States were going to remain for ever in the attitude which they now occupy. We are beginning to recognise that you cannot live in the world and not be of it: that you cannot share the benefits and not share the losses. Now we have learned, in the first place, that war cannot be confined to the area in which it starts. We were not concerned at all in the questions which brought on the conflict in 1914. We did our very best to keep out of the war; but the time came when our interests compelled us to join in the conflict. It was not to make the world safe for democracy, but to make the world safe for ourselves that we sent our armies across the sea. We had discovered most of us, and I think all of us soon will, that isolation does not pay. A man cannot live in the city and not be influenced, and not share in the calamities which affect its inhabitants. I hold no office, I hold a brief for no one; I am saying to you simply that, sooner or later, the forces which will compel us to join in a league to prevent war are too strong for any opposition. We have got to come in. It may be postponed longer than now seems possible. It may be that mankind is going to be involved in further wars for many years to come before his folly is cured. But, sooner or later, we are going to recognise that there are certain things, certain principles, which are common to us all, and that we must reconstruct the world, having in mind those principles, for the benefit of mankind, and not in the hope of helping our own country. Now I have a firm conviction that if the Bar of all the English-speaking races will put its shoulder to the wheel, make up its mind to think peace and to talk peace, and to try and be pleasant no matter what questions arise, sooner or later we shall be able to establish a relation, which can be described in the words of an old toast of the Bar of the English-speaking races: "Distinct like the billows, but one like the sea." Gentlemen, I give you "The Bar," the English and the Canadian Bar, who are our hosts on this occasion, and whom we, with heartful gratitude, thank for the courtesy and kindness with which we have been received.

The Right Hon. Sir Edward Clarke, K.C., in replying said:—I am honoured that I should make acknowledgment of the toast that has just been proposed—the toast of "The Hosts." To those who are our guests in this hall to-night I have to make reply, and I tell them that we of the Bar of England and of Canada—for I am specially honoured by being allowed to speak this evening not only for the English Bar, but also that I have the confidence of my Canadian friends to make acknowledgment for them too—we thank you for your presence here, and we are sure that your coming here, as your brethren are coming this evening to other Inns of Court, and your taking part in the assemblies which have been fixed for this week, will be a great and permanent benefit to the Bar of the United States as well as to our own people. You represent, we represent, a profession, the value of which to the world is not always understood and recognised. It is the profession which has been in all ages and climes, and under every form of Government, the surety and the safeguard of order and liberty. In every State there must be a limitation of individual freedom of action; without such limitation no State can exist. It is the profession of the law which has the duty, and performs the duty, of so moulding and determining necessary and useful laws as to secure at once the public welfare of the State, and to leave free those personal energies and capacities which are the vital force of every civilised community. That is the duty which the law has always performed, and performs to-day. I am the Senior Bencher of this Inn; as the Senior Bencher, as one who is deeply sensible of the value that the administration of the law is in every place, and the importance of its being kept pure; of the fact that in any country to find a courageous advocate and a conscientious judge is the best assurance of liberty and right—as one who feels this so deeply, it is the greatest possible pleasure to me to be allowed to acknowledge your presence here, to congratulate ourselves upon our having the honour of receiving you, and to hope that in the years to come the memory of to-night, to you as well as to us, will bring pleasant recollections, and will fortify us in the discharge of our duties.

Inner Temple.

At the dinner, on Monday, at the Inner Temple, R. F. MacSwinney, Esq. (Treasurer), in the chair.

The Right Hon. Lord Hewart of Bury (Lord Chief Justice of England) referred to the banquet given twenty-four years ago by members of the Bench and Bar of England to representatives of the Bench and Bar of the United States of America, and said that the significance of the present gathering was immeasurably heightened by the fact that the British hosts of their American guests had the honour and delight of being reinforced by their distinguished brothers of the Bench and Bar of Canada. He continued:—To-night in this hall are gathered together in a spirit of union and of unity never to be forgotten, representatives of the law from the Atlantic to the Pacific together with representatives of the law in these islands. And when you say, "From the Atlantic to the Pacific" you use a phrase which may with equal accuracy express "from Maine to California" or "from Nova Scotia to British Columbia." What one is tempted to ask, is the secret of this unity, this goodwill, this kindly and gracious visit, this essentially fraternal welcome? We are told that we are members of one and the same profession. Yes, but does membership of the same profession always and equally create brotherly affection? The ancient moralist said that men of the same profession were to one another as potters. The modern phrase says that two of a trade never agree. We are told also that, subject to certain modifications of a limited kind, we are all deeply absorbed in the same system of law—the Common Law of England. Yes, but if controversy there is to be, is it easier or more probable among men practising and interpreting one and the same system, or among men practising wholly separate systems of law? We are told again that, subject to some other modifications, we all speak the same language. Yes, but still it may be asked whether differences, debates, and divisions, if they arise, may not be greatly encouraged when one language is common to the parties to the dispute. The secret must, I fancy, lie deeper than any of these things, and deeper than all of them taken together. You remember the words of Edmund Burke, a century and a-half ago, in his famous speech on taxation: "Law is, in my opinion, one of the first and noblest of human sciences—a science which does more to quicken and invigorate the understanding than all the other kinds of learning put together." Or, again, in the following year, in his famous speech on conciliation: "*Abeunt studia in mores.* This study renders men acute, inquisite, dexterous, powerful in attack, ready in defence, full of resources." You remember also the words of Oliver Wendell Holmes when he addressed the Suffolk Bar Association forty years ago: "What a subject is this in which we are united—this abstraction called the law, wherein, as in a magic mirror, we see reflected not only our own lives, but the lives of all men that have been! When I think on this majestic theme, my eyes dazzle. If we are to speak of the law as our mistress, we who are here know that she is a mistress only to be wooed with sustained and lonely passion—only to be won by straining all the faculties by which man is likest to a god." But there is no need to multiply testimony. Those who belong to the legal profession do not require it. Those who do not are not always impressed by it. It is enough to suggest that no small influence making for unity and fraternity is to be derived, not so much from membership of the same profession as from the intrinsic and essential nature of this particular profession itself, this best and most generous of all the professions, with its unexampled traditions, its honourable and unrestricted rivalry, and its splendid *esprit de corps*—a profession in which every man knows it to be his duty not to desire public applause, but rather to vie with his colleagues in aiming at a high standard of personal efficiency and in cultivating a high ideal of public service. That, I imagine, is part of the secret. And, gentlemen, we know—if feeling is evidence—that there is something deeper still. Unity of language, unity of law, unity of profession—these are great matters. Yet is there not something even more excellent, which illuminates and in part explains them, and in its turn is deeply and mysteriously strengthened by them? One element at least in the personal diffidence with which an Englishman must propose this toast arises from his feeling perhaps that, instead of being among the hosts, he might so easily have been one of the guests, if it had not been for a somewhat arbitrary exercise of discretion on the part of his great grandfather. Westminster Hall reminded us this morning, if any one of us is ever likely to forget, that we are really one, that

this is for all of us our home and ancestral hearth, co-heirs and co-partners as we are in that unsurpassed and unsurpassable heritage of history and tradition which fills us all with personal humility and corporate pride. We read of Leagues of Nations and of unions of hearts. Here at least, is a union of hearts and a league of nations before our eyes, a vast organic association not made by artifice or design; for whether we say, "hands across the sea," or whether we say "hands across the lake," we belong, every one of us, to that Empire of the English-speaking race which holds its peaceful and beneficent sway, the parent of justice and freedom, in the minds, the memories, and the lives of men. That, I dare to think, is the secret of this gathering—that is the spirit in which we offer to our brothers the most cordial and affectionate welcome.

We live by Admiration, Hope, and Love,
And even as these are well and wisely fixed
In dignity of being we ascend.

Ladies and Gentlemen, I give you, with the greatest goodwill, the toast of "Our Guests."

Mr. ISAAC PITBLADO, K.C., LL.D. (Vice-President of the Canadian Bar Association), in supporting the toast, said:—Need I say that we who live in Canada are proud of the Dominion in which we dwell; we are proud of our mighty rivers, our great lakes, our broad and great plains, and our stupendous mountains; we are proud of the great vastness of our Dominion and of our laws and institutions, and we are proud of our people who interpret those laws. We have brought many of them over here to exhibit them to you. We are also proud of the British laws and institutions, and we are very proud of the activities which have resulted in the Canadian exhibits at Wembley. In Canada we are proud of the fact that we have two great races, the French-speaking and the English-speaking races, growing up side by side, each exhibiting the best traditions of their Mother Countries, and both equally loyal and eager. We English-speaking members of the Canadian Bar want you, the members of the British Bar and the members of the American Bar, to meet our French-Canadian members, and to enjoy them and love them as we enjoy and love them. We, in Canada, are proud of our neighbours—the only neighbours we have. It is a grand thing to live in a good neighbourhood. I need not say that for over 100 years we have had no quarrel with our neighbours. We have our own boundary line, some 3,000 miles long, without a fort, without a gun, without a soldier on guard, without a sentry, and anyone travelling from Canada to the United States cannot tell when he has gone across the border. It is true that at times our boys make faces at the boys across the line, but that is simply a children's game. Canada and the United States are one in all that stands for the advancement of the human race. Just a word in conclusion. Some of the writers have told us how in the days of old the Knights Templars went forth from the Temple Bar clad in their armour, and were bold in the cause of Christianity. May I suggest that to-night in your midst you have a great band of pilgrims who have come across the sea for new inspiration, so that, inspired by the example and spirit of the glorious dead, immortalised in these halls, we, the living, may go forth to the United States of America, or anywhere else, to think and to act and, if necessary, to die for the common good of man.

Mr. President, I join with the Lord Chief Justice in asking those present to drink heartily to our guests who have come from the United States of America.

Major EDGAR B. TOLMAN: In this historic place, on this momentous occasion before this distinguished gathering, it is my undeserved honour to respond on behalf of the American Bar Association. Your hospitality has been so fine, so great, so perfect, that there are no words adequate to describe it. Every member of this happy pilgrimage of ours unites in the wish that at an early date our relations may be reversed, and that you, who are to-day our gracious hosts, may be our honoured guests, and that we may be privileged to throw open to you our homes and our hearths on an occasion similar to this. But we cannot cast up the account of our indebtedness to you by a mere reference to this splendid occasion. Our debt to you runs into ancient days, into the dark ages. There was a time when people dressed from top to toe in shining armour. They did this, not because of any whim of fashion, but because those were the days when right and justice were at the mercy of the god of battle. I wonder what would have been our situation here to-day if the old days of armour were back again with us. Why is it that men no longer dress in shining armour and carry a sword by their side? There is a very simple answer to that question. It is because of one simple fact; the invention of the judicial institution and its development to that state when men find that justice is better accomplished through the judicial system than through the old system of appeal to force. The American lawyer acknowledges his indebtedness to the English lawyer, and perhaps most of all to those lawyers who, with the Barons of King John, the great charterer of English liberty, established a court, independent of royal favour, in a certain place, to which all could go for justice. But our debt to the English lawyer has not stopped with the achievements of Runnymede. Through all the centuries that have passed since that day the English lawyer has been developing the institution to greater efficiency, so that it might bring greater and more complete justice to the service of mankind; for without justice there can be no peace, and without peace there can be no civilisation. You, with your judicial procedure—I will not speak of the Common Law, which is our own heritage—but in the matter of judicial procedure you have produced a simplified practice which to us is extremely simple, although I was astonished, when I came here, to read criticisms in the English papers of its faults, but the contrast to our system is very great. We have come here to simplify our system. Shortly you will have to go to America for improvements in the Common Law. Under the providence of God it became our part to join with you in the great struggle for salvation of liberty and democracy. May we not now join with you, and with our Canadian brothers, in working and, if necessary, in fighting to bring about a better administration of justice and a broader administration of justice, to enlarge the field of justice, and to ensure and procure liberty and civilisation for all mankind for ever.

The Hon. HENRY L. STIMSON, in proposing "Our Hosts," said: I desire to attempt to voice our sense of the debt which we owe to the British Bar for its contribution to the public welfare—that great system of ordered liberty which is the joint inheritance of both our nations. Mr. Treasurer, that is an old subject, but to our eyes it has taken on new and resplendent lustre during the past ten years since the outbreak of the great war, and I think I can speak with great confidence when I say that never has the debt which we owe to that Bar been so well appreciated by intelligent public opinion as it is to-day.

The American lawyer can realise the part which the Bar of England has played in translating the conceptions of ordered liberty and justice into living actuality. Many races have had the vision but only the English-speaking race has been able to make the vision a living reality, and it is your brothers of the American Bar who can realise the importance of the steps of procedure and the doctrines of law, often appearing to have no relation to the conception itself, by which those theoretical rights are made available at once and always to the individual who needs them. I say that we are able to realise that, perhaps, in a peculiar sense, because it has been our experience to see in the affairs of our neighbours, not to the north of us but to the south, occasions where the vision was wanting in realisation. In the early part of the nineteenth century, when the Colonies of Spain, in South America, threw off the Government of Spain, the American lawyer saw his Bill of Rights, his Constitution, copied almost verbatim into the Constitution of those nations; he saw those nations start ahead fully equipped with the charter of liberties so far as pen and paper and ink and good intentions could give it to them, and he witnessed the long struggle, now, thank God, over, of chaos and anarchy, of oscillations between disorder and dictatorship, which took place in spite of those charters, simply because there was no Bar, no public opinion stimulated by the Bar, and no knowledge of the procedure and of the great bridge with which we are so familiar by which those visions can be translated into reality. Thus we realise at the Bar of America our debt to your Bar in a peculiar sense and have had it brought home to us in a peculiar sense through the events of the past ten years. We can realise now how the German policy, which so shocked us in 1914, was what it was, and had become what it was, very largely because of the great crises in the German Empire. There was none of the conception of ordered liberty and no independent Bar in that great Empire with the traditions which you have to vindicate those rights. We can see now how, in that vital year of 1862, when the Iron Chancellor was putting into effect his first military Budget, rejected by the Prussian House of Delegates, and was enforcing it in spite of that rejection, there was no John Hampden of the Inner Temple to resist it, as John Hampden had resisted 230 years before, when it was sought to impose something similar in violation of the will of the people. Men of your race and men of ours died for those principles which I have referred to on the field of France, and with those memories in our minds we feel, when we come into this Hall, where that system of principles for which they died was developed, that we are in a Temple, indeed, enshrining the very foundations of our liberty, and so it is a great pleasure to be here and to give you the toast of the English Bar.

Lord SUMNER, in replying, said: Master Treasurer, my lords, ladies and gentlemen: The gracious and eloquent terms in which Mr. Stimson has been good enough to propose this toast would in themselves make my task a light one in responding and offering our grateful thanks for them. I feel, however, this embarrassment, that I speak for the Bar of England, although I am now an elderly judge; I speak for the Bar of Canada, which has done us the infinite honour of crossing the ocean to join us in extending to the Bar of the United States of America such hospitality as

is possible to us; and I desire also to join, in the thanks which I tender to you, the thanks of some who are not present to-night, namely, the members of what we call the other branch of the profession. That other branch is engaged to its great delight and honour in entertaining, not far from this spot, within the sacred precincts of Chancery Lane, others of England's guests. I venture to say, in joining them with us in these thanks, that although differently organised, differently attired, and differently, and perhaps indifferently, remunerated, they form, from their senior member to their newest acolyte, with us, a compact body of lawyers, not less confident in one another than, under your system, are those lawyers who unite in themselves the virtues and the functions of both branches of the profession. I was at the gathering referred to by the Lord Chief Justice, and one of the things which lives in my memory is this. Mr. Rufus Choate, a great Ambassador, a great friend of this country, a great ornament of his own country, a great lawyer, was, I think, the principal speaker upon that occasion, and I remember, when he spoke to us from over there in this room, he said, "My lords and gentlemen," and then he spread his arms wide, and said, "Brothers all," I do not know if it had ever been said before; I can hardly imagine it would ever need to be said again in the memory of those who were there. It stamped upon one's mind the fact that the lawyers on both sides of the Atlantic are brothers. The lawyers on both sides of the Atlantic are children of democracies, and in democracies the voice of the people is the voice of God, and must be true. With whatever mental reservations you may receive that sentiment, I can only suppose that, as a working hypothesis, it may be accepted for the moment. As far as I can gather it is the opinion of all laymen that lawyers are bad men in this sense, that it is their business to make black white; it is their business to feed upon the widow and the fatherless; it is their business to befog judges by endless irrelevancies, and that the only chance that they take is the main chance. Gentlemen, if we are brothers, we must stick up for ourselves. To say that lawyers make black white is to beg the question. If the black really is white they are quite right in making it white; it is indeed, a picturesque and artistic feat, and nothing but a decision of the Supreme Tribunal, I am glad to say, can decide which is black and which is white. Again, lawyers, on the whole, are sensible and reasonably selfish men. What is the good, from the lawyers' point of view, of devouring the widows and the fatherless; how much better it is to be retained by corporations; and I cannot help thinking that as long as there is larger game to be pursued the widow and the fatherless will not come off so very badly.

Gentlemen, as we have been told, we have various bonds. We have bonds of history. I am one of that school of history students which acts upon the maxim, "Let bygones be bygones"; and, therefore, without prejudice to those who are better informed, I am quite prepared to think kindly of Charles I and George III. Then there are textbooks. It is an infinite gratification to me to know that you, even more diligently than we do, thumb the pages of Littleton and of Coke-upon-Littleton, and of Blackstone, and of Halsbury's Laws of England; but, speaking from the point of view of those who have cases cited to them and do not have to hunt up the cases for themselves, I wish to affirm the vital importance of using your judgment for yourselves. If you are bound by authority you are bound by authority, although there are ways of getting round even that; but I do not believe that there is any doctrine or technical law that is not fit for re-examination from time to time. But these sacred mysteries must not be profaned by the vulgar, and the right to examination is reserved for those who are not subject to be reversed upon earth, whatever may await them at another Bar.

Now, gentlemen, we have received you, I believe, with warmth, and, although we have done what a shy and self-conscious people can do, I do not think we have manifested to you the full warmth that we feel; but do not let it be supposed that, as far as I am concerned, affection is the chief note of a lawyer. The true feeling for lawyers is pride. Every lawyer ought to be proud of his profession; every lawyer throughout the world ought to feel, and I think does feel at the bottom of his heart, that in the whole world there is no nobler profession than that of the law, and, if we are all united in that I will ask you, each man for the Bar of his own country, to say what I, on behalf of those for whom I speak, say now, that in the whole wide world there is no greater Bar than the Bar of England.

Middle Temple.

At the dinner given at the Middle Temple, Sir Robert Wallace, K.C. (Treasurer) in the chair, the toasts of "The King," "The President of the United States," "Domus," and "Absent Members" were duly honoured.

The CHAIRMAN said: We had hoped to have had the pleasure to-night of having one who is known to you all, our Senior Bencher, Lord Finlay, present with us, but I have just heard from him that he is detained by public duty at the Hague, and he writes to say this: "It is to me a most bitter disappointment. I long to tell our American friends how highly I prize the memory of all the kindness they extended to me in my visit to them three years ago, and how I rejoiced to know that their visit is drawing more closely the bonds which unite the two countries. I believe that in the friendship between England and America lies the hope of the future. With my compliments and best wishes, always sincerely yours, Finlay." Just as we came into the hall, I received from him this additional telegram: "An exile in Holland. I send heartiest greetings to our American and Canadian Brothers in the Law and deeply regret that I am not present as in spirit.—FINLAY."

Master Sir ROBERT MCCALL, in proposing the toast of "Our Guests," referred to illustrious names connected with the Middle Temple, Sir Walter Raleigh and Edmund Burke, and continued: The English common law has obtained for itself one striking illustration. More than 300 years ago Richard Hooker—the judicious Hooker, as he was properly called—wrote his marvellous book, "The Ecclesiastical Polity." In the Master's house, which lies a few yards from the hall where we are met, you will see the old dilapidated desk upon which the manuscript of "The Ecclesiastical Polity" was written, and in that striking book he says of law, of the Common Law that I have mentioned before, "This at least must be acknowledged: Her seat is the bosom of God, her voice the harmony of the world. All things in Heaven and Earth pay homage to her, the less as being entitled to her care, the greatest as not exempt from her power." And now that something more than five years after the Armistice has been signed we have to consider what the position is after escaping from the dreadful peril that threatened civilisation in Europe, we ought to recall the noble lines which Milton addressed to Cromwell after some of his great victories: "And yet there is something to conquer still; Peace has its victories no less renowned than war." It is to the victories of peace that I would invite your constitutional lawyers on both sides of the Atlantic. The peace is what we ought all to pray for. The path of peace is what we all desire to tread, and the sooner that the constitutional lawyers on either side of the Atlantic make it clear that that peace must at all hazards be secured, whatever the results may be to national pride or national susceptibility, it is the duty of all constitutional lawyers to bring before and persuade their people that what the world wants and what we want is a permanent and a just peace.

The toast was coupled with the names of Mr. Dickinson, Mr. Roscoe Pound, and Mr. R. B. Bennett.

Mr. DICKINSON: The American Bar Association was formed in 1878. Some of our eminent and most widely experienced lawyers saw the necessity of having a body to uphold our laws and to promote a more fraternal spirit among the brethren of our Bar. Of course, you gentlemen all know that we have separate State jurisdictions in addition to the jurisdiction of the Federal Court. In every State in the Union, in almost every county, there are Circuit Courts and Chancery Courts or other Courts of like jurisdiction, and then there is the Supreme Court of each State, each State having, of course, supreme jurisdiction over everything pertaining to matters not involved under the system of Federal law. Therefore, we had great conflict of laws. Now the American Bar Association, inspired by these purposes, has wrought wonderfully for the establishment of uniformity of laws in many respects throughout our States and the elevation of standards of admission to the Bar and a raising of the curricula at the various law schools throughout the United States. The result has been that our law courses have been raised to one year in some institutions, in others to two years, and the general standard is three years. It requires as a condition precedent for admission that we must have a degree of Bachelor of Arts in some standard university. So our Committees have wrought and brought about the enactment in many States of uniform laws on negotiable paper, bills of lading and other subjects which I will not now mention. If any of you should be interested enough to look into the proceedings of the American Bar Association you would see how much that Association has achieved by inaugurating the number and character of the Committees that are working to promote the purposes and objects of that Association. But, in effecting necessary changes in procedure, we do not have the ready and prompt response that you have here. Your people are homogeneous. You have not that complicated problem that we have, and you have not the necessity that was sought to be guarded against by the wise founders of our Constitution. So you can realise and have realised the changes, and you are responsive to public sentiment. But with us, to a certain extent, obstruction is the order of the day, and it was intended to be the order of the day. For that reason, probably more than any other, the Supreme Court of the United States was given power to pass judgment upon the constitution of the Courts of Congress and the Supreme Court by virtue of that has become the great conservator of our people. It is the accepted view of all wise statesmen that the friendship of our two countries is essential to the welfare of mankind. We are here to confirm

the statement that the friendship of the English and British people is the greatest asset now left to humanity. It is a happy augury that our necessities and our friendship go hand in hand, and it is a great event that the American Bar have come here in such large numbers, and have met and know you as they do. There is one contrast which, if you will bear with me a moment, I will call to your attention. Here in England there is largely a concentration in one city, or at least in a few cities, of the influences of the American Bar; but these lawyers come to you from the Atlantic to the Pacific, from the Great Lakes to the Great Gulf. When these men go home and tell of the reception they have had here they will not go home to tell merely the population of New York but all in a thousand States where in many hundreds of courts they will recall the scenes here, and will reflect amongst the people there the experience they have had here and the esteem which they put upon you, which I assure you is of the highest.

Mr. ROSCOE POUND: My Lords, ladies and gentlemen—it has been said many times to-day, and will be said many times in the next few days, that we are here by the token of a common blood, a common speech, common political institutions, and a common law. Yet, since Americans parted politically with the Mother Country 150 years ago, on our side of the water that common blood has been much diluted, and that common speech, one might say, has been unconventionalised, at least on our side of the water. Those common political institutions had already begun to diverge before the revolution. The events of 1688 made the legislature supreme in England, but our colonial polity led us in our constitution to preserve the institutions of Tudor and Stuart England, with a co-equal legislative, execute and judicial, governing together if they could, governing in spite of each other if they must. So that the enduring point has been the Common Law, and no phenomenon I suppose in our national life has been so marked as the persistence and vitality of that Common Law. Only historians know that the custom of Paris was once law in Wisconsin, Illinois and Michigan. Only historians realise that over the great dominion of Louisiana the Roman law once obtained, at least in theory. In the domain which we obtained from Mexico only a few disappearing curiosities in the law of property remain to show that that was once the domain of another system. Yet, if a stranger were to ask us exactly in what this unity of law consists I suspect that we should be hard put to it to convince him. The books on which that law was based—Coke's Institutes and Blackstone's Commentaries—have ceased to be studied, I suspect, on the other side of the water. Scarcely a vestige of the old formal and refined procedure and the feudal land law as found in Blackstone obtain on the other side of the water. That part of Coke's Institutes which is still living with us in our decisions upon our Bills of Rights ceased to be of importance in England, at least so far as legislation was concerned, with the sovereignty of Parliament after 1688. It is true there are a few American jurisdictions where we still crave orders, where replications arise, and where assignments flourish; but nearly everywhere that sort of learning is as dead as it has been in England since 1873. To show you how far we have diverged in the matter of property, it is enough to say that in England to-day lands devolve upon the personal representative, and in at least one American jurisdiction personal property devolves upon the heir. A great mass of new subjects have arisen for which one would look in vain in the pages of Blackstone or of Coke, and in those subjects frequently the diversity is as notable as the similarity. Yet, out of all that diversity and all that similarity, there are three points that stand out. In England and in America the law is ascertained, and the law is developed judicially and professionally, whereas in the rest of the world it is ascertained by legislation and developed academically. In England and the United States we have a traditional art of deciding cases on the basis of the recorded judicial experience of the past, whereas in the rest of the world cases are decided by a technique of applying written text. But, most of all, in England and in the United States we look at questions judicially, whereas in the rest of the world they are looked at, if I may say so, administratively; and behind those three points I venture to think is a common frame of mind, a frame of mind which we have inherited from the Middle Ages, which thinks of law as something not made, but found, and thinks of the quest for law as a quest for the justice and truth of the Creator. That is the frame of mind which led the judges in the Middle Ages to tell Edward III that, though he could pardon an offender under his Great Seal as King of England, he could not write a private letter as Edward Plantagenet to the Sheriff and interfere with the due course of justice. It is that frame of mind which led the judges of Henry VII, when Parliament enacted a statute that derogated from what were then regarded as the fundamentalities of the social order, to say that it was impertinent. It was that frame of mind that led the judges to say to James I that he could not sit upon the bench and decide personal cases affecting the fortune or inheritance of his subjects. It is that frame of mind that has led courts in the United States within a generation to remind sovereign legislatures of sovereign peoples that they too rule under God and the law. In that frame of mind we have something which is enduring while law books become obsolete and statutes are repealed—something permanent and unrepealable. I say to you that in that frame of mind we have a ground of unity beside which treaties, covenants, and alliances will prove but fleeting.

Mr. R. B. BENNETT also spoke on behalf of the Canadian lawyers, and said: Mr. Treasurer, my lords, ladies and gentlemen, who can think of the names connected with this hall without emotion? Who can for a single moment look down this hall to-night and see the misty shadows of the ghosts of those immemorial dead? I confess I have been moved more than I have ever been moved in all my life before. Those shields on that screen, those immemorial names and the traditions which twine around this Inn have moved us, and moved us greatly. I would only say this—there is no need for me to trespass upon your time or patience with a speech—that we still cherish the same ideals, the same lofty aspirations, the same desire to spread the doctrines of the common law, order, freedom and liberty in the new world which we inhabit, that men may all be conscious of their great inheritance. If I might venture to say so to our American friends, we claim with our English brothers this as part of our just inheritance. This Inn with all its associations and past memories and splendid traditions is my history; it is part of my traditions; it belongs to me as a part of this great Empire. Our cousins must to-night, as they look down this old hall and as they look upon these walls, as they recall the history of the great departed dead, cherish in their hearts reverence and respect. They must go back with some sense of pride. Those who went from this old land and laid the foundations of new civilisations in the northern half of the American Continent, those who made the United States, come back here from the new world all speaking the same tongue and all bearing witness to the same glorious traditions, the same reverence and regard for law, order and liberty. Even as we do, that our civilisation progresses in just and correct proportion as we measure it by our regard for law and order. I will not trespass further upon your time, ladies and gentlemen, except once more to thank you with all my heart on behalf of my brethren in Canada for all your hospitality. Your tradition and history are common traditions and common history. You may take it from me, my lords, ladies and gentlemen, that great as has been your contribution to the history of the world you have made no greater contribution than the contribution which has made possible the growth and development of Dominions overseas—no ambitions, no ideals, no traditions, resolved as are the men of Canada who represent the Bar that, as the centuries go by and are measured with history, new centuries shall come and say: "We will continue to be a strong, loyal, devoted commonwealth within that greatest of all institutions that the world knows for the preservation of peace and order—the British Empire."

Gray's Inn Hall.

At the dinner on Monday at Gray's Inn, Master The Right Hon. the Earl of Birkenhead (Treasurer) in the chair, the Chairman proposed the toast of Master His Royal Highness Prince Arthur of Connaught, who was present, and the Prince replied.

The CHAIRMAN, in proposing the toast of "Our Guests," said: Our guests are the members of the American Bar. We have here in this hall members of that Bar who come from every corner of the United States of America. We have been fortunate indeed in the collection which we have been privileged to make from the distinguished men who have come over representative of that great republic on an occasion at once so unique and so historic. I do not know whose was the first happy inspiration of this invitation, but this I say quite plainly: it never could have succeeded as it has already succeeded unless there had been upon both sides genuine fountains of friendship and affection upon which the well-disposed in both countries could confidently draw. I may, perhaps, remind some of you to whom these things are unknown of the great and intimate association which this Inn had with the life, the career, and the genius of the incomparable Shakespeare. The great patron of Shakespeare, the Earl of Pembroke, was an honoured member of this Society, and there was indisputably played on the first night of its performance one of Shakespeare's most wonderful plays in this hall, almost certainly in the presence of Queen Elizabeth, and quite probably in the presence of Shakespeare himself. Nor has the fabric or character of the hall altered in the slightest degree since that date. Behind me, as I address you, is the picture of Sir Nicholas Bacon, Lord High Keeper of the Seal, to be the father of five illustrious sons, of whom one furnished the greatest intellect which in England has ever been devoted to the study of the law, and of whom it was written:—

> England's High Chancellor, the destined heir
> In his soft cradle to his father's chair
> Whose even threads the Fates spin round and full
> Out of their choicest and their whitest wool.

In my judgment the visit of the lawyers of the United States of America in such numbers to the lawyers of this country, friendly guests received by friendly hosts, may well mark a new stage in the history of the relationship between the two countries. And I, it is well known in these matters, do not speak or pretend to speak, nor have I ever pretended to speak as an idealist: in fact, on at least two occasions (on both of which I have been proved to be absolutely right) I have been assailed by the shrill sentimentalists of two continents; and, therefore, when I myself deflect slightly upon this side I expect that that, shall I say, will be listened to with more respect than is ordinarily accorded to me. Therefore, I make it quite plain that in my judgment no more important occasion in the long and varied history even of this Society has ever taken place than that which has made you, the lawyers of America, more closely acquainted with us than you could ever become by reading our Law Reports or by our legal history, for surely there is something in the touch of the hand, in the second of the spoken word. I desire to add this, and to add this only, that I am sure there is no man who, in however humble a capacity, has taken part in the reception of our American guests but has been deeply touched by the courteous pleasure and friendship which our small exertions have elicited. And this, too, I would add, that I am sure they on their side, if they accord nothing else, will at least concede this, that if there is any single thing in the world that we could have arranged that we thought would give them pleasure, we have tried to arrange it, and if we have failed it has merely been because we did not think of it.

His Honour The Hon. H. W. NEWLANDS, Lieutenant-Governor of Saskatchewan, in supporting the toast, said:—There were two reasons why the Canadian Bar Association so promptly and so extensively accepted the invitation of the Attorney-General of England to come here and associate themselves with the British Bar as the hosts for the American Bar Association. The first of these was the great opportunity it gave us to meet those distinguished men who are the judiciary of England, and also the leaders of the English Bar. Their names are household words in Canada; we know them by their reputation, by their judgments; but very few of us have had the opportunity previously of meeting them personally, and it was therefore an opportunity that we could not pass over when we were invited to join them on this occasion. The second reason was that we would have the great privilege of meeting in these halls the old four Inns of England. They were known to us as the halls in which the great legal minds of the law lived and did their work: it was here that the great men formed those principles of the Common Law which those of us who were of English and British birth took with us to Canada as our inalienable rights, and on which the liberties of Canada have been built. We are not, however, entirely a Common Law country. We have, as you know, in the second largest province of the dominion, the French Civil Law; and I can assure you, gentlemen, that the people of Quebec have the same respect and the same love for the Civil Law of France as we have for the Common Law of England; but though they talk French and though their law is the French Civil Law, they are just as good British subjects as we are in the other parts of the country. It is a great pleasure for us to associate ourselves with the British Bar as hosts for the American Bar. It has been stated on many occasions that Canada is a link between Great Britain and the United States. In Canada we feel that there are two great links of Empire, first, the King upon the throne. In every part of this Empire, from the Imperial Parliament down to the smallest Crown Colony, His Majesty is part of our legislature, and no Bill becomes an Act unless with the signature either of himself or his representative. That, I think, is one of the greatest links which holds our Empire together. The other is the Imperial Privy Council; and from all parts of Canada, from the Civil Law Province of Quebec, from the Common Law provinces, all of us look upon that court, our Final Court of Appeal, as not only one of the links, but one of the safeguards of our liberty. There are occasions when we probably do not agree with the judgments of this court, but I would ask you lawyers: How often is it that a lawyer is satisfied with the judgment of a court? Though we are dissatisfied with the judgments of that court on occasions we recognise it with the Supreme Court of the United States as one of the greatest courts in the world, presided over by the most distinguished men of learning in the law, men who give their judgments with an independent and unprejudiced opinion. I believe that we people in Canada might almost promise you that while Canada is a part of the Empire there will be no trouble between the United States and the British Empire. I, of course, do not intend to threaten the people of the United States, because if our standing army was spread along the border no one man would be in sight of the other; it would be impossible for any man to come into contact with another one except by wireless telegraphy, because we have not as many men in our standing Army as we have miles in the boundary line between Canada and the United States. But our people go south; their people come north. Their cities give advantages to our young men. Our farming country gives advantages to the people who wish to settle on the waste lands of Canada; and in mixing together we have become so much connected that I do not believe there could be a thought in the United States of any trouble with Canada or with the British Empire which could not be settled by getting around the board and discussing the thing as we have done quite recently. It might be well if the League of Nations would take the illustration which we Canadians and the people of the United States have given to the world. We have a boundary line on which there are neither guns nor men: we have lakes as large as some oceans on which there are no warships; and that condition has lasted for over 100 years. When it has lasted for over 100 years I think that the people of both countries have been so educated that there is no prospect that other conditions will ever exist.

Master PAUL CRAVATH, in replying to the toast, said:—Enjoying, as I do, the honour of being a Bencher of Gray's Inn, I am not certain whether I am a guest or a host; perhaps I am both, and if I am I am doubly proud of being here to-night, because there is no association of my present life that I value so highly as my membership of this ancient and honourable Inn, and there is no place in London where I am so happy and so completely at home as in this historic hall with my brethren of the English Bar: and every American lawyer must feel proud to belong to a profession that is indeed worthy of the reception which the British Bar has organised on such a magnificent and generous scale for their American brothers from across the sea. When the Colonists in America determined to sever their connection with the Mother Country, they severed political ties, they severed social ties; they severed their religious ties, and dissociated themselves with the established Church of Great Britain. They took their political philosophy—or they thought they did; they really did not—from the philosophers who were sowing the seeds of the French Revolution; they established a form of Government which in name, at least, differed radically from that of England at that time; but there was one tie that they never thought of severing, and that was the tie of the Common Law of England. You are giving us an opportunity, and I hope you are having an opportunity for yourselves, to find out that the Anglo-Saxon is the same man, whether he remains in England or Scotland or Wales or Ireland, or whether he took root in Canada or Australia or New Zealand, or South Africa, or in the United States. He is the same man, not because of any blood or any ancestry: it is more, I suspect, because of his heritage of British tradition and especially of the Common Law of England, which is the tie which binds us all. Therefore, I feel sure that the result of this conference on the thousand and more American lawyers who are enjoying the hospitality of this roof, and are given the opportunity of shaking your hands and hearing your voices, of understanding your sentiments and of studying your problems, representing as they do every State in the Union, almost every community in the United States, will be that it will do more to cement Anglo-American friendship and co-operation than anything else.

The Hon. Mr. MARSHALL BULLITT, in proposing the toast of "Our Hosts," referred to popular notions of the American Revolution, and said: In the last twenty-five years the work of American scholars has given to us for the first time the point of view of the eighteenth century British statesmen who were charged with the responsibility and burden of the control and the administration of your dominions throughout the world. When that position was once recognised by the scholars it was seen that the Revolution was not the result of a tax on tea or molasses or the measures taken to collect it, but that the Revolution had begun long before the Writs of Assistance and the Stamp Act. Those scholars, whose names I will not bother you with, but who, for the last twenty-five years, have been doing all this historical research work in America, have pointed out that really the causes of the Revolution went back to the irreconcilable difference between the English and American point of view which was whether one group of men in the world had the right to control another group of men somewhere else in the world against their will. That is really the question, the difference between Empire and local self-government. There were two different conceptions at that time of the British Empire, or, rather, the brotherhood of the British Constitution as related to the Empire as distinguished from the Realm. One view held by a majority of the British Parliament was that the Colonies were a part of and belonged to the Imperial Commonwealth and were subject to Parliamentary control and were entitled to Imperial protection and must pay part of the cost. The other theory held by a majority of the Colonists was that their connection with the Empire was only through the King, and not through the Crown, that Parliament had no right to bind Englishmen beyond the Realm with respect to matters of internal policy and that in the Colonial Charters, in what they called natural law, there were certain inalienable rights guaranteed, and that any Act of Parliament in contravention of those rights was unconstitutional and void; and it was that conception

which the Colonies invented as the justification of their resistance to English laws which is the origin of the unique feature of a system of Government by which we have established the Supreme Court which has the power to declare unconstitutional and void any Act of Congress or any law of a State which in its opinion violates the terms of the Federal Constitution, and it is the results of this new scholarship which, as they become the common property of educated people in America, and are taught in colleges and become incorporated into the text-books, will dissipate the old prejudice, which will teach the new generation of Americans that that old anti-British bias which has influenced our politics and our life for so long is a thing of the past.

The war wiped out for ever in its common sacrifice of wealth and blood and life all the old prejudices, all the old feeling, and I believe and expect that the result of this unique visit to England will be that 2,000 lawyers and their families will become as many missionaries spread all over the United States preaching to the plain people of the country the importance of maintaining a union of sentiment of the English speaking people for the maintenance of popular representative government, for the preservation of peace and for liberty regulated by law. It is to my countrymen especially that I commend the sentiment that was expressed more than a quarter of a century ago of the Poet Laureate of England of that day: "We severed have been too long; But now we have done with the worn-out tale —the tale of an ancient wrong—And our friendship shall last as love doth last, and be stronger than Death is strong."

Master The Honourable Lord Justice ATKIN, in replying to the toast, said: The doors of this house have never been flung open with greater cordiality and with more goodwill than to-night, when, in conjunction with our brethren and colleagues of Canada, we welcome our brethren and colleagues of the United States. Close and intimate as are the ties that bind all English speaking lawyers, speaking with variations all of them in the language and the phrases of the English Common Law, we must recognise I think that this is not a mere domestic occasion, and that the depth of feeling that inspires us may transcend even the close knit affection of the family tie. Blood is thicker than water, but there is a sentiment that appeals as poignantly, indeed, that appeals more poignantly than the claims of blood—the identity of high ideals pursued with common principles in a devotion to common duty. We lawyers are very commonly reputed to be a cold-blooded and self-seeking profession. As a rule I think we concern ourselves very little with the notions that are current among the vulgar; we know how that currency is debased, but I think that on an occasion such as this, even at a convivial gathering, we may strengthen our mutual ties by reminding ourselves that we are all of us in our own station ministers of justice, and that to our faltering hands are entrusted the scales and the sword, a symbol of the highest and the most dreadful attribute of omnipotence itself.

The Hon. Mr. Justice RIDLEY, Judge of the Supreme Court of Ontario, also replied, and after speaking of the United Empire Loyalists who founded his province, the Province of Ontario, and the French, who from 1763, when Canada was ceded by the French King, had been faithful to the British Crown, and of the events of 1914 and after, continued—

A year or so ago there was being played in Washington a drama on which the whole world looked with bated breath and beating hearts. What is Congress to do in respect of the League of Nations? I refuse to allow myself to become excited, President as I am of our branch of the League of Nations. I recognise that the League of Nations is the League of the heart and sentiments of the two Nations, the English-speaking Nations. My friends, so long as these two great peoples, the British Commonwealth of Nations, with their far-flung line, the American Republic, so long as these two Nations stand together, think together, feel together, act together, peace and civilisation are secured. I ask no formal treaty. There is that which is stronger than a parchment bond. There is that which is more powerful, more effective than anything written by pen or graven by chisel, and that is that moral law which we believe proceeded from the Throne of God himself; that moral law which binds together peoples of like sentiments, like feelings, like aspirations, like knowledge of right and wrong; that law which is more powerful and more certain than the physical law which conducts the planets in their race around the sun. That law must keep together these peoples who have a heritage such as they, such as we, a heritage glorious with centuries of history, of law and justice and righteousness. If these two people stand together without a formal treaty the peace of this world is secure, and it is to that union I have been in the habit of addressing the lines of the American poet:—

> "Sail on, O Union strong and great!
> Humanity, with all its fears,
> With all its hopes of future years,
> Is hanging breathless at thy feet.
> Sail on! nor fear to breast the sea.
> Our hearts, our hopes are all with thee.
> Our hearts, our hopes, our prayers, our tears
> Our hopes, our triumphs or our fears
> Are all with thee, are all with thee!"

God bless the union of the English-speaking peoples.

The CHAIRMAN: Mr. Junior, the honesty of this Society is as notorious as its age, and therefore I must invite Mr. Marshall Bullitt to put this toast, "The Hosts."

The Hon. Mr. MARSHALL BULLITT gave the toast, which was cordially responded to.

Master The Rt. Hon. Mr. Justice DUFF gave the toast of "Lord Birkenhead," and Lord Birkenhead replied, and concluded: I leave this delightful evening with the confident belief that even if differences arise in the future between our countries there will be no one who has visited us and learned to know us on this occasion who will not at least go back to the United States of America, and say: "I do not pronounce confidently, or prematurely, whether on this issue we are right or Great Britain is right; at least I am determined that the best construction shall be placed upon the actions of the respective countries."

The Law Society.

At the dinner given on Monday night by The Law Society on behalf of English and Canadian lawyers to the American Bar Association, Mr. R.W. DIBDIN (President of the Society) in the chair, The Right Hon. Sir DONALD MACLEAN, K.B.E., LL.D., in proposing the toast of "Our Guests," said: I am encouraged by the fact that I am only a solicitor, and solicitors are not expected to have anything approaching the gifts of speech which distinguish the members of the other branch of the profession. But my mind goes back, as I am certain does everybody else's here who had the privilege—because it was nought else—of being present at Westminster Hall this morning. I wonder whether I shall be forgiven by our American cousins if I repeat to you a remark which I made to one of my friends as I looked at that vast gathering in that historic hall. I said "How British they look," and it was so. But I must ask our American brothers to forgive us for our limitations in the complete knowledge, or anything approaching an adequate knowledge of the difficulties with which they have to deal. The problem which has faced American lawyers during the past 150 years and perhaps more was this: They have a continent which is 3,000 miles in width and about 1,500 miles in depth. The only way in which one can visualise it is to imagine the confines of our country extended to somewhere about the middle of Siberia on the east, with Moscow at somewhere about its centre, and to its south reaching into the depths of the deserts of the Sahara. On this great stretch of the earth's surface there is scattered a population of not less than 110 millions in which we may be permitted to hope that the Anglo-Saxon race is predominant. But there are also true, full American citizens, men and women representing almost every known language and most of the races scattered wide and far over the earth's surface. In addition to that, in their forty-eight States I believe there is in each one of them a separate legislature turning out Acts of Parliament every day; and upon that the activities, legislative and otherwise, of the great House of Congress. In every State the American lawyer has to deal with these two completely different sets of legislative authorities, and the citizen—poor fellow—has to submit to the authority of both of them. That is the task which the American lawyers, to assimilate over those great distances, gradual as might have been the growth of the population, these vast difficulties. It was only, as we like to think, and as was said so frankly by Mr. Secretary Hughes to-day, that they had the instrument of British Common Law to weld this mass of discordant nationalities into a great American whole. But the progress of American Law has produced legal giants, and we British lawyers desire to render our tribute to the great services which those men have rendered. I will only mention one or two: Chief Justice Marshall, Chancellor Kent, Mr. Justice Storey, and one of the most distinguished members of the Supreme Court, one who ranks with the greatest of them all, Mr. Justice Holmes. But not only has the legal system of the United States of America produced great lawyers, but it has been the fruitful mother of politicians and statesmen. Of our Prime Ministers—there have been thirty-nine of them—only four or five of them were practising lawyers, and the two latest were Mr. Lloyd George and Mr. Asquith; but in America, I think I am right in saying, of the twenty-eight Presidents which the United States has had, the majority—I do not know whether it is a large majority, but certainly a majority of them, have practised the law. How far that has been an advantage to the highest class of statesmanship, I leave opinion to decide. We have another great example set to us as far as the United States of America is concerned, and that is in its splendid system of law schools. But the chief glory after all of American law is its Supreme Court. I hesitate to be emphatic about it, but I have no hesitation in quoting the opinion of a great lawyer as given some years

ago. He said that the Supreme Court of America is the greatest court throughout the world. Whatever the criticisms of the legal profession may be, and they always will obtain, we, who follow the profession have a great, serious and high call to discharge a public duty. Physical force seems to have failed to produce anything like the results which were hoped for. What, then, is the even and impartial remedy? It is the reign of law so far as that can be spread over warring, hostile, and indifferent people. That can never be even partially accomplished without a realisation on the part of us who practise the law, especially in English-speaking countries, of the loftiness of our calling, the width of our opportunities, and the splendid chance we have not only to render national, but international, service. I believe that the main outcome of this visit of the American Bar to this country will be not only the formation of many close and personal friendships, but there will be a linking up of the lofty spirit of endeavour to do what we can, through our profession, to lift the world a little higher than it is at present.

Mr. J. T. HACKETT, K.C., in supporting the toast on behalf of the Canadian lawyers, said: I come, Mr. President, from a land which is not less vast than that which has been described to you by Sir Donald Maclean. The Bar Association of my native country is recruited from an area which is unbounded. The members of that Association are not of one origin; they are not of one creed; they are not of one tongue; they are not of one political party; they are not of one point of view. But, sir, my voice is the unanimous voice of the Canadian Bar Association when it expresses a welcome to the American Bar seated about us to-night. Gentlemen of the long robe, of the *nisi prius* mind, have provided from time to time ample material for the cheap sarcasm of the uninstructed, and we need not begrudge them any joy or entertainment which they derive from such a source. The lawyer finds among men of like training with himself a bond of fellowship, a freemasonry of spirit and understanding which softens the asperities, and survives the conflicts of professional and political rivalry. I believe that that incident which brought the Chancellor of Great Britain, who is the Lord Chancellor to-day, as the guest of the American Bar Association to Montreal in the year 1913 was an incident pregnant with good; because, whether you like it or not, it brought together the Bars of the two most powerful countries in the world, it brought together the two most powerful agencies for thoughtful, reasonable and deliberate, adjustment of the affairs that exist in the world to-day; it brought together those agencies which when dissolved into—I was going to say their native state—but when they go home to their respective communities and carry with them the story of the good fellowship, the understanding, the underlying oneness of us all is bound to cement that fellowship upon which will be erected—may it please the Almighty—an everlasting peace. A peace which will be everlasting because it will rest upon law, upon order, upon mutual respect, and all those things which make the fighting—pardon the word—barrister respect and at the same time love the foeman who is worthy of his steel.

The Hon. SILAS H. STRAWN, in reply, said:—In these surroundings and in this distinguished presence, I find myself like a young man afflicted with stammering, who, when asked if he had ever attended a school for stammering, said, "No, I did not; I picked it up." I feel it inadequate in me, to express the appreciation of my associates and myself for your most generous hospitality and your most cordial greeting. We expect to profit greatly and to learn much from this visit. Already we have been greatly refreshed upon your splendid ships, which have all the privileges that appeal to us most strongly. This is a day when every branch and every field of human endeavour is altering under the vast labyrinth of problems, practical and legal, and more particularly is this true of the law, because the time has come when more than ever before in our history a lawyer is relied upon, not only to advise his client, but to diagnose the client's case as to all its complications, and to prescribe a remedy and work it out successfully. I make no reflection upon any vocation or any other business when I say that in reality the lawyers are the mentors of the world. A lawyer's training necessarily enables him to have a more disciplined mind in order that he may more disinterestedly and more courageously approach the problems which he has to solve. You in this country have a difference between the barrister and the lawyer. I take it that it makes no difference what the name is, we are all in the same circle in the interests of the administration of justice, irrespective of the fact that we may not live in the same square.

The Hon. R. E. L. SANER, in proposing the toast of "The British Bar," outlined the distinctions between the American and British Constitutions, and continued:—The powers of government in the States, as in the nation, are divided into three distinct independent but co-ordinate branches. The legislative branch makes the laws and controls appropriations. The executive branch administers the laws and the judicial branch construes the laws. It is this power exercised by the courts of our land to declare the acts of Congress and of the State Legislatures void, when they violate the terms of our written Constitution, which distinguishes our government from yours, and from nearly all the countries of the world. This may be difficult for the lawyers of England to understand. Our Constitution is declared to be and is, the supreme law of the land. It controls the President, the Congress, the judiciary and lowest citizen of the land. It is the fundamental and paramount law of the nation. Our great Chief Justice John Marshall said: "So, if a law be in opposition to the Constitution, if both the law and Constitution apply to a particular case, so that the court must either decide that case conformably to the Constitution, disregarding the law the court must determine which of these conflicting rules governs the case. This of the very essence of judicial duty. If, then, the courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution and not such ordinary act must govern the case to which they both apply." That is the theory, both as to constitutional supremacy, and as to the power of the courts to pass upon the constitutionality of acts of Congress, upon which our institutions are builded. It is not for me to say whether your form of government, or ours, is best. Such a discussion would be academic, and unproductive of good. My conclusion would probably be that both are best, for the respective countries in which they obtain, and that neither form would be suitable or acceptable to the other. Upon the English-speaking lawyers of the world rests the burden, not only of maintaining their rightful place in the political leadership of their country, but through precept and example, of teaching the people their obligations and duties, to unselfishly and patriotically participate in whatever sphere providence has placed them, in the functions of their government. Time forbids an elaboration of the theme. This delightful coming together of the lawyers of the three countries has and will operate to draw together in the bond of comradeship the English-speaking people of the world. How gracious has been your welcome; how refreshing is your hospitality. The lawyers of America shall ever remember and never forget your many acts of kindness, of goodwill, and of friendly deeds, and shall return home with emotions of love and respect and honour for the lawyers and for the institutions of our Mother Country.

The PRESIDENT: Your Grace, Ladies and Gentlemen:—I should have wished very much indeed that it had fallen to someone else to respond to the toast which has been in so eloquent and interesting a manner proposed by Mr. Saner. But the duties of my office seem to involve one more strain upon your attention, and is that I shall respond personally to this toast. It seems to me that the obligation is entirely on the other side. It is a very great honour and a very great pleasure for us here to have been allowed to take a part in this great international event which is taking place this week in London. It is a great privilege for us to entertain so many distinguished members of the Bench, and of the Bar of the United States, and we hope that we shall gather and learn something from them, and that they will carry away when they leave us, at all events, some kind feelings towards the ancient practitioners of law in the old country. Ladies and gentlemen—when I say ladies and gentlemen, I am thinking particularly of the ladies—we have a few barristers at the English Bar in London, but I have never yet seen any of them in practice. I understand that the ladies who practise at the American Bar have large practices, and in the very small opportunities that I have had this evening of seeing them I do not wonder at it at all. I am sure, ladies and gentlemen, when you come here you expect to find something very ancient and retrograde, but I can assure you that our minds are open in England to new impressions, and I am sure especially open to the charms of lady barristers. I have never yet had the privilege of paying a visit to the United States; that is a thing I am looking forward to when I get old. (Laughter.) When I do so the very first excursion that I shall make will be to the Law Courts. I agree most thoroughly with the busman who always took his holiday, when he had one, on another bus, so that he might thoroughly enjoy himself, and if I went to America, I should go to the Law Courts, and I have no doubt that I should hear a great deal which is most interesting from the Chief Justice and the other great lawyers of those courts, whose judgments we read and quote and often follow here; but what I should really like to hear would be the Portias of the American Bar addressing the juries and the courts and bringing justice for their clients, even if they do not deserve it. Ladies and gentlemen, the proposer of this toast seemed to take a great interest in Magna Charta. I take a very great interest in Magna Charta, and perhaps you will allow me to tell you a little story about Magna Charta. We are very much interested over here, as you are in the States, in the subject of education, and we have a vast number of inspectors who go round the schools to see that the children are properly instructed. One inspector is reported to have gone round to a school and he asked what you would think was a very simple question: "Who signed Magna Charta"? There was a pause, and nobody seemed disposed to answer. The inspector got quite irritable, and he said: "Doesn't anybody know who signed Magna Charta?" A tremulous youth put up

his hand and said: "Please, sir, I didn't." The inspector thought it was rather a good story, and that night dining with the squire he repeated that story. The squire laughed very much, which is the way with English squires, especially in fiction. He said: "That is very good indeed." Then, after a slight pause, he said: "I suppose the little devil did though, after all." Ladies and gentlemen, will you allow me to say in conclusion how very proud we are indeed in the Law Society to entertain such a distinguished audience. We feel really that we are taking part in a very great movement in the world's history. If it is the lawyers who really move the world, surely the united lawyers of England and America will not only use their great powers to spread peace and goodwill among all English-speaking people, but whenever their forces are united they will spread peace and goodwill throughout the civilised world. On behalf of the Law Society I thank you very much indeed for your goodness in coming to us to-night. We shall always remember it within these walls which have been so much honoured by your attendance. We hope you will carry back with you to the United States the affection and regard and respect which we feel for you and which we hope in some measure you may feel for us.

The guests present were:—

The Duke of Northumberland, Earl Stanhope, Sir Charles Russell, Sir Francis Dunnell, Sir Alexander W. Lawrence, Sir Claud Schuster, K.C., Sir Humphry Rolleston, Sir Campbell Stuart, Sir William B. Peat, Sir George Parker, Sir A. Lowes Dickinson, Mr. William Clifton, Mr. J. H. Shaw, Mr. R. W. Woods, Mr. Thomas Penny, Mr. C. E. Fletcher, Mr. A. C. Stanley Stone, Mr. J. C. Holmes, Mr. Sydney C. Scott, Mr. T. H. Wrensted, Mr. J. B. Hartley, Mr. H. E. Jones, Mr. W. M. Sinclair, Mr. Fred. Thompson, Mr. W. W. Marks, Mr. Reg Clayton, Mr. Vincent Thompson, Lieut.-Col. A. P. Symes, Mr. Alfred W. Drew, Mr. F. Davis, Mr. John S. Davies, Mr. A. E. Chubb, Mr. Arthur C. Borlase, Mr. Richard W. Rylands, Mr. H. A. Learoyd, Mr. H. M. Gisby, Mr. V. E. G. Churcher, Mr. Walter H. Francis, Mr. Joseph James, Mr. W. Carless, Major D. E. Speight, and Mr. H. Haden Kendrick.

The following members of the American Bar Association: Mr. A. Pratt Adams, Mr. Louis S. Ashman, Mr. Lee L. Baker, Mr. J. Crawford Biggs, Mr. Eugene C. Brokmeyer, Mr. James C. Brooks, Mr. Philo C. Calhoun, Mr. Justin Morrill Chamberlin, Mr. Melville Church, Miss Regina B. Closs, Mr. Paul Campbell Cloyd, Mr. James Cochran, Mr. John C. Crapser, Mr. G. C. de Garmo, Mr. Clarence E. Drake, Mr. Alexander S. Drescher, Mr. Phanor J. Eder, Mr. Paul H. Gaither, Mr. Nelson T. Hartson, Mr. George B. Harvey, Mr. Charles W. Haswell, Mr. John Howard, Mr. William Hunter, Mr. George H. Kattenhorn, Mr. Robert E. L. Knight, Mr. J. Michael Koses, Mr. W. Logan MacCoy, Mr. J. C. MacFarland, Mr. Clement Manley, Mr. John Murray Marshall, Mr. Roderick N. Matson, Mr. Richard Mays, Miss Helen C. McNamara, Mr. Jesse A. Miller, Mr. J. P. Mooney, Mr. W. J. Patterson, Mr. Amasa C. Paul, Mr. Walter S. Penfield, Mr. R. E. L. Saner, Mr. Justice Sanford, Mr. Joseph A. Seidman, Mr. William S. Siemon, Mr. Henry Simms, Mr. Henry Upson Sims, Mr. FitzHenry Smith, junr., Mr. John L. Smith, Mr. Reginald H. Smith, Mr. Frederick H. Stinchfield, Mr. Silas H. Strawn, Mr. Charles H. Tenny, Mr. Charles D. Turner, Mr. R. E. Watson, Mr. Charles R. Webster, Miss Harriet Weiler, Mr. George E. Williams, Mr. Thomas J. Baldridge, Mr. David H. Bilder, Mr. Charles A. Brown, Mr. Robert M. Calfee, Mr. Alfred C. Cassatt, Mr. Walter W. Clippinger, Mr. Charles Ray Dean, Mr. Conover English, Mr. David J. Gallert, Mr. Charles Lamson Griffin, Mr. George E. Henderson, Mr. Parker H. Hoag, Mr. George H. Huddy, junr., Mr. Henry, Craig Jones, Mr. William H. Keller, and Mr. Charles I. Landis.

The following members of the Canadian Bar Association: Mr. H. A. Allison, Mr. E. W. Beatty, K.C., Mr. Brooke Claxton, Judge Dickson, Mr. John T. Hackett, K.C., Mr. Owen A. F. Hamilton, Mr. F. C. L. Jones, Judge Leask, Mr. George H. Montgomery, K.C., Mr. D. C. Mullin, K.C., and Mr. Russell S. Smart.

The following members of the Council of The Law Society: Mr. R. Armstrong, Mr. T. H. Bischoff, Mr. H. R. Blaker, Sir William Bull, Mr. L. B. Carslake, Mr. A. H. Coley, Mr. W. H. Foster, Mr. H. Gibson, Sir Charles Longmore, Mr. C. Mackintosh, Sir Donald Maclean, Mr. C. G. May, Lieut.-Col. S. T. Maynard, Mr. R. W. E. L. Poole, Mr. H. G. Pritchard, and Mr. B. A. Wightman, and Mr. E. R. Cook (Secretary).

At the meeting of the Council of the Institution of Professional Civil Servants, held on the 22nd inst., it was reported that the Chancellor of the Exchequer had decided that Civil servants in receipt of salaries in excess of £700 per annum should not have the right to arbitration, except in exceptional circumstances. It was agreed that, although this decision was unjust and illogical, in that it deprived a section of civil servants of the right to refer their claims to an absolutely impartial body, the proposed Arbitration Board was a distinct advance on the old one, and should therefore be accepted by the Institution. It was agreed that the Council should continue to work for the acceptance of the principle of arbitration for all classes of civil servants.

Prevention of Eviction Act, 1924.

An Act to prevent unreasonable eviction of tenants. [*14th July* 1924.

Be it enacted, &c.

1. *Amendment of* 13 & 14 *Geo.* 5. *c.* 32. *s.* 4. *ss.* (1).]—Paragraphs (iv) and (v) of subsection (1) of the section which by section four of the Rent and Mortgage Interest Restrictions Act, 1923, is substituted for section five of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 [10 & 11 Geo. 5 c. 17], are hereby repealed as respects pending as well as future proceedings, and the following paragraph shall be substituted therefor:

(iv) Where the dwelling-house is reasonably required by the landlord (not being a landlord who has become landlord by purchasing the dwelling-house or any interest therein after the fifth day of May, nineteen hundred and twenty-four) for occupation as a residence for himself or for any son or daughter of his over eighteen years of age and the court is satisfied, having regard to all the circumstances of the case, including any alternative accommodation available for the landlord or the tenant, that greater hardship would be caused by refusing to grant an order or judgment for possession than by granting it.

2. *Application of Act to pending proceedings.*]—(1) Where any order or judgment has been made or given before the passing of this Act but not executed, and in the opinion of the court the order or judgment would not have been made or given if this Act had been in force at the time when such order or judgment was made or given, the court on application by the tenant, may rescind or vary the order or judgment in such manner and subject to such conditions as the court shall think fit for the purpose of giving effect to this Act.

(2) Where a landlord has, on or after the fifteenth day of April, nineteen hundred and twenty-four, taken possession of a dwelling-house under a judgment or order so rescinded as aforesaid, such possession shall not in any case exclude the dwelling-house from the operation of the Rent and Mortgage Interest (Restrictions) Acts, 1920 and 1923.

3. *Short title.*]—This Act may be cited as the Prevention of Eviction Act, 1924, and shall be construed as one with the Rent and Mortgage Interest (Restrictions) Acts, 1920 and 1923, and those Acts and this Act may be cited together as the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1924.

Law Students' Journal.

The Law Society.

PRELIMINARY EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 2nd and 3rd July, 1924:—

Altman, Alick
Bailey, Arthur Sidney
Barling, Arthur Joseph
Barrow, Henry Graham
Bassadone, William
Beames, Geoffrey Hesketh Pearson
Beckett, Allan
Blacker, John Turton
Bonner-Morgan, Richard Geoffrey
Bonwick, Alfred Norman
Booth, Norleigh
Bromfield, John Hall
Brown, Ronald Wait
Chard, Ralph Nicholas
Chester, John Grenado
Clarke, Harold
Cohen, Lionel Clifford
Coulson, Richard Power
Davies, Ralph William
Dryden, John Beville
Evill, Godfrey Ariel
Gibson, Howard Alfred
Gillson, Maurice Dugdale
Grimsdale, Frederick James
Haines, William Percival
Hancock, Charles MaGin Coulter
Harward, Denis Cuthbert
Heywood, Frank Beattie
Higgs, Godfrey Walter
Hill, Rowland
Isemonger, Arthur Edward
Jackson, Francis Herbert
Jones, William John
Kaberry, Donald
Kettle, Rupert Ernest
Kidd, Andrew Lennox
Kimber, Philip Robert
Knight, Geoffrey Charles Voughton
Lloyd, Llewellyn Howard
Mills, John Richard
Morgan, Henry Francis Clive
Nicholas, John Aubrey James
Ormiston, Alan George Ross
Pembroke, Geoffrey Vernon Worth
Pogson, Rex
Pollard, Robert Spence Watson
Powell, Vivian
Powell, William Morgan Jones
Puxon, François Edward Mortimer
Scofield, Harry William Reginald
Scott, Norman Francis
Sharratt, James
Smith, John
Sutcliffe, Gilbert
Tebbs, Horace Aubrey Nelson
Thompson, George Malcolm Chadwick

Veitch, William Archibald Frank — Watson, William Innes
Watson, Robert Douglas — Wilson, Richard William George Macgreagor

No. of Candidates - - 108. Passed - - 60.

HONOURS EXAMINATION—JUNE, 1924.

The names of the Solicitors to whom the Candidates served under Articles of Clerkship follow the names of the Candidates.

At the Examination for Honours of Candidates for Admission on the Roll of Solicitors of the Supreme Court, the Examination Committee recommended the following as being entitled to Honorary Distinction :—

FIRST CLASS.

(In order of merit.)

1. Gathorne Roy Jenkins, LL.B. London (Mr. Leonard Arthur Wallen, of Blaina).
2. Joseph Arthur Skyes, B.A. Oxon. (Mr. Godfrey Ernest Castle, of the firm of Messrs. Whitley & Co., of Liverpool).

SECOND CLASS.

(In alphabetical order.)

Sebag Cohen (Mr. John Spours Nicholson, of the firm of Messrs. J. S. Nicholson & Son, of Sunderland).

Philip Finch Randall, B.A., LL.B. Cantab. (Mr. George Leslie Wates, of the firm of Messrs. J. D. Langton & Passmore, of London).

William Cecil Taylor, B.A., LL.B. Manchester (Mr. James Arthur Atkinson Taylor, of Bolton).

THIRD CLASS.

(In alphabetical order.)

John Ambler (Mr. John James Rawsthorn, of the firm of Messrs. Rawsthorn, Ambler & Booth, of Preston).

John Risdon Amphlett (Mr. James Amphlett, of the firm of Messrs. Amphlett & Co., of Colwyn Bay; and Messrs. Sharpe, Pritchard & Co., of London).

Edgar Holden Hollis Anthony, B.A. Oxon (Messrs. Macdonald and Stacey, of London).

Thomas Macdonald Baker (Mr. John Owen Gosling, of Weybridge; and Mr. Edwin Thomas Hatt, of Reading).

George Henry Butler, B.A. Oxon. (Mr. Albert Deards Mason, of Barnsley).

Reginald Hubert Victor Cave, B.A., LL.B. Cantab. (Mr. Charles Ernest Burton, of the firm of Messrs. Becke, Green & Stops, of Northampton).

Edward Parry Evans (Mr. Evan John Davies, of Cardiff).

Albert Fletcher (Mr. Robert Whittaker Butcher, of the firm of Messrs. Butcher & Barlow, of Bury).

Charles Philip Forster, B.A. Cantab. (Mr. George Edward Wilkinson, M.A., of the firm of Messrs. Wilkinson & Marshall, of Newcastle-upon-Tyne).

Stanley George Gains, M.A. Cantab. (Mr. James Jonas Dodd, of the firm of Messrs. James & Charles Dodd, of London).

Horace Kenyon Hardcastle (Mr. Charles Edward Churchill, of the firm of Messrs. Churchill, Clapham & Co., of London).

Percy Horace Hill (Mr. David Henry Tompkins, of the firm of Messrs. Cain & Tompkins, of London).

Henry John Hobson (Mr. Moses Hyman Isaacs, of the firm of Messrs. Hyman Isaacs, Lewis & Mills, of London).

John Horsley Lees, B.A., LL.B. Cantab. (Mr. Justus Arthur Poole Phelps Thompson, of the firm of Messrs. Bischoff, Coxe, Bischoff & Thompson, of London).

John Lewis Lloyd (Mr. John Norman Bailey, of the firm of Messrs. Gibson & Weldon, of London).

Alan Alfred Roger Martin (Mr. Alan Scott Martin, of the firm of Messrs. Tucker, Hussey & Martin, of London).

Rudyard Holt Russell (Mr. Alfred Tyrer, of the firm of Messrs. Tyrer, Kenion, Tyrer & Simpson, of Liverpool).

Robert Brierley Sears (Mr. Bernard Edward Halsey Bircham, of the firm of Messrs. Bircham & Co., of London).

Alfred Skeit (Mr. Stamp William Wortley, LL.B., of Chelmsford; and Mr. Arthur Owen Warren, of the firm of Messrs. Warren & Penman, of London).

Leonard William Arthur White (Mr. Robert John Willatt, of the firm of Messrs. Brown, Willatt & Marriott, of Nottingham).

John Hywel Williams, LL.B. London (Mr. Joseph Henry Bate, of the firm of Messrs. Allington Hughes, Bate & Newman, of Wrexham, and Messrs. Jaques & Co., of London).

Robert Hilton Wilson (Lieut.-Col. Daniel Johnston Mason, D.S.O., T.D., of the firm of Messrs. Howson, Dickinson & Mason, of Whitehaven).

The Council of the Law Society have accordingly given a Class Certificate and awarded the following prizes :—

To Mr. Jenkins: The Clement's Inn Prize, value about £42.

To Mr. Sykes: The Daniel Reardon Prize, value about £21.

The Council have given Class Certificates to the Candidates in the Second and Third Classes.

Thirty-eight Candidates gave notice for Examination.

By Order of the Council.

E. R. COOK, Secretary.

Law Society's Hall, Chancery Lane, London, W.C.
18th July, 1924.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4%. Next London Stock Exchange Settlement, Thursday, 14th August.

	Middle Price. 23rd July.	Interest Yield.
English Government Securities.		£ s. d.
Consols 2½%	56⅞	4 7 6
War Loan 5% 1929-47	101¼	4 19 6
War Loan 4½% 1925-45	96⅞	4 13 6
War Loan 4% (Tax free) 1929-42	101⅞	3 18 6
War Loan 3½% 1st March 1928	96⅞	3 12 6
Funding 4% Loan 1960-90..	87¼	4 11 6
Victory 4% Bonds (available at par for Estate Duty)	93	4 6 6
Conversion Loan 3½% 1961 or after ..	76¾	4 11 6
Local Loans 3% 1921 or after	64⅞	4 12 6
India 5½% 15th January 1932	101½	5 9 6
India 4½% 1950-55	86⅞	5 3 6
India 3½%	65¼	5 6 6
India 3%	56½	5 6 6
Colonial Securities.		
British E. Africa 6% 1946-56	112½	5 6 6
South Africa 4% 1943-63	89	4 10 6
Jamaica 4½% 1941-71	95	4 14 6
New South Wales 4½% 1935-45	94½	4 15 6
S. Australia 3½% 1926-36	85½	4 2 6
W. Australia 4½% 1935-65	94½	4 15 6
New Zealand 4½% 1944	95½	4 14 6
New Zealand 4% 1929	95½	4 3 6
Canada 3% 1938	83	3 12 6
Cape of Good Hope 3½% 1929-49	80	4 7 6
Corporation Stocks.		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	54½	4 11 6
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	65	4 12 6
Birmingham 3% on or after 1947 at option of Corpn.	65	4 12 6
Bristol 3½% 1925-65	76	4 12 6
Cardiff 3½% 1935	88	3 19 6
Glasgow 2½% 1925-40	75	3 6 6
Liverpool 3½% on or after 1942 at option of Corpn.	77	4 11 6
Manchester 3% on or after 1941	65	4 12 6
Newcastle 3½% irredeemable	76	4 12 6
Nottingham 3% irredeemable	64½	4 13 6
Plymouth 3% 1920-60	69½	4 6 6
Middlesex C.C. 3½% 1927-47	82	4 5 6
English Railway Prior Charges.		
Gt. Western Rly. 4% Debenture	84½	4 14 6
Gt. Western Rly. 5% Rent Charge ..	103½xd.	4 16 6
Gt. Western Rly. 5% Preference	101½	4 18 6
L. North Eastern Rly. 4% Debenture ..	83½	4 15 6
L. North Eastern Rly. 4% Guaranteed ..	83	4 16 6
L. North Eastern Rly. 4% 1st Preference	81	4 19 6
L. Mid. & Scot. Rly. 4% Debenture ..	84	4 15 6
L. Mid. & Scot. Rly. 4% Guaranteed ..	83½	4 15 6
L. Mid. & Scot. Rly. 4% Preference..	81	4 10 6
Southern Railway 4% Debenture	83½	4 16 6
Southern Railway 5% Guaranteed ..	103	4 17 6
Southern Railway 5% Preference	101	4 19 6

Obituary.

Mr. P. F. Swain.

We regret to record that Mr. Percival Francis Swain, Secretary of the Public Trustee Office and Assistant Custodian of Enemy Property, died suddenly at Dingley, Tilehurst-on-Thames, last Saturday in his fortieth year. Born at Reading and educated at Reading School and University College, he qualified as a chartered accountant in 1909, and entered the Public Trustee Office in 1910. He was promoted Assistant Principal Clerk in 1915, and Principal Clerk in 1917. His widow is the daughter of Mr. F. W. Balding, of Padworth, Berkshire.

Legal News.

Dissolutions.

WILLIAM JOHN SADD and LIONEL STANDLEY, Solicitors, 14, Rampant Horse-street, Norwich (Sadd, Bacon & Standley), 31st day of December, 1923. [*Gazette*, 18th July.

ANEURIN OLIVER EVANS and SYDNEY WATKINS, Denbigh and Ruthin (Aneurin O. Evans & Co.), 30th day of June, 1921. [*Gazette*, 22nd July.

Two motor drivers were sentenced by Mr. Justice McCardie at Birmingham Assizes on 17th inst., on charges of manslaughter. One, Herbert Sceney, nineteen, admitted that he was treated to two glasses of port, and could not stand wine. His car, travelling at a speed of thirty miles an hour, struck the kerb. A passenger was thrown out against a lamp-post and was killed. The second driver Joseph Francis Pizany, twenty-seven, took a bend at night at twenty miles an hour and knocked down a youth. Sceney was sentenced to six months' imprisonment and Pizany to two months' imprisonment. The Judge said that, in view of the grave abuse respecting motor-car driving now existing he could not impose a fine. "I doubt if motorists appreciate their responsibilities," added his Lordship, "and in future I think judges will feel that penal servitude is the appropriate punishment for grave offences of manslaughter."

Court Papers.

Supreme Court of Judicature.

Date.	Rota of Registrars in Attendance on			
	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday ..July 28	Mr. Jolly	Mr. Bloxam	Mr. Bloxam	Mr. Hicks Beach
Tuesday 29	More	Hicks Beach	Hicks Beach	Bloxam
Wednesday ... 30	Synge	Jolly	Bloxam	Hicks Beach
Thursday 31	Ritchie	More	Hicks Beach	Bloxam
	Mr. Justice Astbury.	Mr. Justice P. O. Lawrence.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday ..July 28	Mr. Ritchie	Mr. Synge	Mr. Jolly	Mr. More
Tuesday 29	Synge	Ritchie	More	Jolly
Wednesday ... 30	Ritchie	Synge	Jolly	More
Thursday 31	Synge	Ritchie	More	Jolly

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette.—FRIDAY, July 18.

BYERS BROS. LTD. July 31. Alfred Henry and Herbert H. Marks, 15, Copthall-av., E.C.2.

T. H. WYNNE LTD. Aug. 27. K. Smellie, 4, Lloyds-av., E.C.3.

PEACEHAVEN PRINTING WORKS LTD. July 26. C. W. Legge, 4, Clinton-pl., Seaford.

D. MARK LTD. Aug. 24. J. L. Goodwin, Chancery-la. Station-chmbrs., High Holborn, W.C.1.

H. O'BRIEN & CO. LTD. Aug. 11. A. D'A. Deakin, 7, Golden-sq., W.1.

PRAG, HINDE & SONS LTD. Aug. 30. J. Hardy and H. P. Gould, Upper King-st., Norwich.

J. A. JUDSON & SON LTD. Aug. 20. W. F. Kightly, 110, Cheapside.

THE WHOLESALE HOSIERY CO. LTD. Aug. 30. W. Nicholson, 12, Wood-st., Cheapside.

AUCKLANDS WIRELESS LTD. Aug. 12. F. G. Jenkins, 4, Philpot-la., E.C.3.

Resolutions for Winding-up Voluntarily.

London Gazette.—FRIDAY, July 18.

The Didworthy Trust Ltd.
The Victory (Preston) Cinematograph Co. Ltd.
Boslin Ltd.
Amusements Construction Co. Ltd.
Montagus Da Costa Ltd.
British Pipeless Central Heating Ltd.
Klotzin Ltd.
Oleo Exploration Ltd.
The Borwood Tool Co. Ltd.
North British Pipeless Central Heating Ltd.
Hampton & North Ltd.
The Northern Tjiliwoeng Plantations Ltd.
Victoria Wine Co. Ltd.
The Lyme Regis Electric Light & Power Co. Ltd.
Colwills (Ilfracombe) Ltd.
John Donaldson & Co. Ltd.
See-Bright Optical Co. Ltd.
The Dysart Ltd.
Fords Ltd.
Triple Record Co. Ltd.
Hillgate Smallware Manufacturers Ltd.
Connaught Fisheries & Produce Co. Ltd.
T. H. Wynne Ltd.
British Motor Trading Corporation Ltd.
National Roofings Ltd.
Miller Day & Co. Ltd.
Building Renovations Ltd.
Elliott's (Haywards Heath) Ltd.
Tingey Wireless Ltd.
Scholey & Co. Ltd.
Freslands Ltd.
Harlinco Brush Co. Ltd.
Wembley Supply Co. Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, July 18.

ALLCHORN, GEORGE B., Millwall, Licensed Victualler. High Court. Pet. June 26. Ord. July 15.

BARNETT, JACOB, West Hartlepool, Sailors' Outfitter. Sunderland. Pet. July 12. Ord. July 12.

BILL, ALFRED E., Dudley, Builder. Dudley. Pet. July 14. Ord. July 14.

BOGDAN, JOSEPH F., Liverpool. Liverpool. Pet. June 26. Ord. July 14.

BROWN, I. E., Golden-la., Merchant. High Court. Pet. March 27. Ord. July 15.

BULLOCK, ARTHUR T., Swansea, Jeweller. Swansea. Pet. July 15. Ord. July 15.

BURKE-JACKLIN, HAROLD, Gerrard-st., W.1, Company Director. High Court. Pet. July 15. Ord. July 15.

CAWLEY, HERBERT R., Chelmsford, Oilman and Hardware Dealer. Chelmsford. Pet. July 12. Ord. July 12.

C. & C., Clapton, Wholesale Confectioners. High Court. Pet. June 30. Ord. July 15.

CHAPMAN, WILLIAM, Havant, Hants, Music Seller. Portsmouth. Pet. July 14. Ord. July 14.

COCKERTON, W. J., Stamford-hill, N., Fishmonger. High Court. Pet. June 18. Ord. July 15.

COLLINGE, ARTHUR, Birkenhead, Cotton Salesman. Birkenhead. Pet. July 14. Ord. July 14.

DICKINSON, ALBERT, Bargoed, Motor Engineer. Merthyr Tydfil. Pet. July 15. Ord. July 15.

DONE, JAMES H., Ellesmere Port, Caterer. Birkenhead. Pet. July 14. Ord. July 14.

DUGDALE, MARY, Ambleside, Westmorland, Confectioner. Kendal. Pet. July 16. Ord. July 16.

DUNHILL, LEONARD, Dewsbury, Incorporated Accountant. Dewsbury. Pet. July 1. Ord. July 14.

HALPERN, BERNARD, Dalston, General Merchant. High Court. Pet. June 5. Ord. July 16.

HARTLEY, I. H. & CO., Manchester, Cloth Merchants. Salford. Pet. June 21. Ord. July 11.

HAYTON, EVAN W., Penygraig, Glam., Colliery Haulier. Pontypridd. Pet. July 16. Ord. July 16.

HILDESLEY, CECILY A., Courtfield-gardens. High Court. Pet. June 5. Ord. July 16.

HIND, JOHN, Lincoln, General Dealer. Lincoln. Pet. July 14. Ord. July 14.

HOBSON, PETER, Bolton, Oil and Colour Dealer. Bolton. Pet. July 14. Ord. July 14.

HOLMAN, FRANK, Newport, Mon., Wood Carver and Turner. Newport. Pet. July 14. Ord. July 14.

JEFFS, ERNEST W., Hillmorton Paddox, nr. Rugby, Carter. Coventry. Pet. July 14. Ord. July 14.

JOYCE, MAJOR J., Bedford Park. Brentford. Pet. May 10. Ord. July 15.

KERWICK, R. S., Purley. Croydon. Pet. April 25. Ord. July 15.

KNAGGS, JOHN W., Easington Colliery, Durham, Tailor. Sunderland. Pet. July 14. Ord. July 14.

LE BUTT, LT.-COL. RALPH, Chancery-la. High Court. Pet. April 17. Ord. July 15.

LEWIS, ARTHUR E., and RAMSBOTTOM, RICHARD, Keighley, Cinema Proprietors. Bradford. Pet. July 14. Ord. July 14.

LITCHFIELD, JAMES F., Girton, Cambridge, Carter. Cambridge. Pet. July 14. Ord. July 14.

MACKENZIE, JOHN S., Croydon. Croydon. Pet. May 22. Ord. July 15.

MACKERILL, JOHN R., Bridlington, Bricklayer. Kingston-upon-Hull. Pet. July 12. Ord. July 12.

MARKS, SYDNEY, Carthusian-st., Metal Engineer. High Court. Pet. June 26. Ord. July 16.

MCGILL, GEORGE C. P., Chiswick. Brentford. Pet. July 25. Ord. July 14.

MILLEDY, THOMAS G., South Woodford, Farmer. Bury St. Edmunds. Pet. June 10. Ord. July 16.

MILLWARD, HENRY C. P., Great Yarmouth, Fruiterer. Great Yarmouth. Pet. July 14. Ord. July 14.

MOORCROFT, HENRY, Ashton-under-Lyne, Manufacturing Confectioner. Ashton-under-Lyne. Pet. July 16. Ord. July 16.

MORTIMER, GIBBS & CO., Victoria-st. High Court. Pet. June 21. Ord. July 16.

MUDDLE, MAUD, Whitecross-st., Licensed Victualler. High Court. Pet. May 13. Ord. July 16.

NEWSTEAD, ARTHUR, Chester, Taxidermist. Chester. Pet. July 16. Ord. July 16.

PAYNE, MAURICE G. J., Triangle, nr. Halifax. Halifax. Pet. June 30. Ord. July 15.

PAYNE, ERNEST E. B., Norfolk, Grocer. Norwich. Pet. July 16. Ord. July 16.

PERRIAN, F. R. H., Falmouth, Licensed Victualler. Truro. Pet. July 16. Ord. July 16.

QUINN, CHARLES, Waterloo, Lancs. Liverpool. Pet. June 4. Ord. July 16.

QUINN, JAMES, Waterloo, Lancs., Secretary. Liverpool. Pet. June 4. Ord. July 16.

RADFORD, LEONARD A., Leicester, Electrical Engineer. Leicester. Pet. July 14. Ord. July 14.

RODERICK, JENKIN L., Ebbw Vale, Mon, Builder. Tredegar. Pet. July 15. Ord. July 15.

RUBENSTEIN, JULIUS, Kingston-upon-Hull, Seaman's Outfitter. Kingston-upon-Hull. Pet. July 15. Ord. July 15.

RYDER, SAMUEL, Crewe, Builder. Nantwich. Pet. July 3. Ord. July 15.

SEALY, HUGH S., Leicester, Draper. Leicester. Pet. July 16. Ord. July 16.

SCOTT, LAURA, Bedminster, Musical Instrument Dealer. Bristol. Pet. July 14. Ord. July 14.

SHIRTCLIFFE, DAVID D., Harrogate, Colliery Agent. Huddersfield. Pet. July 15. Ord. July 15.

SMITH, ROBERT F., and HOLEMAN, ALFRED, Engineers, High Court. Pet. July 12. Ord. July 14.

THE GORDON HARVEY CO., Dowgate-hill, Engineers. High Court. Pet. June 20. Ord. July 16.

TREVOR, JOHN, Wellington, Salop, Carpenter. Shrewsbury. Pet. July 14. Ord. July 14.

WEBB, DONALD P., Manchester, Insurance Broker. Manchester. Pet. June 27. Ord. July 16.

WILKINSON, ROBERT, Preston, Wholesale Dairyman. Preston. Pet. July 12. Ord. July 12.

WILLIAMS, ALICE M., Tredegar, Mon., General Dealer. Tredegar. Pet. July 16. Ord. July 16.

WILLIAMS, CLARENCE A., Monks-rd., Newsagent. Lincoln. Pet. July 14. Ord. July 14.

WORTHING, THOMAS, Hay, Brecknock, Carpenter. Hereford. Pet. July 15. Ord. July 15.